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# JUVENILE DELINQUENCY

## COMMERCIAL CHILD ADOPTION PRACTICES

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HEARING  
BEFORE THE  
SUBCOMMITTEE TO INVESTIGATE  
JUVENILE DELINQUENCY  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
EIGHTY-FOURTH CONGRESS

SECOND SESSION

PURSUANT TO

### S. Res. 173

INVESTIGATION OF JUVENILE DELINQUENCY IN THE  
UNITED STATES

ON

### S. 3021

A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO  
MAKE UNLAWFUL CERTAIN PRACTICES IN CONNECTION  
WITH THE PLACING OF MINOR CHILDREN FOR PERMA-  
NENT FREE CARE OR FOR ADOPTION

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MAY 16, 1956

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Printed for the use of the Committee on the Judiciary



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ERNEST A. MITLER, *Special Counsel*

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# JUVENILE DELINQUENCY

## Commercial Child Adoption Practices

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WEDNESDAY, MAY 16, 1956

UNITED STATES SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY  
TO INVESTIGATE JUVENILE DELINQUENCY,  
Washington, D. C.

The subcommittee met, pursuant to notice, at 10 a. m., in the caucus room, Senate Office Building, Senator William Langer, presiding.

Present: Senators Langer and Wiley.

Also present: Peter N. Chumbris, associate counsel; Ernest A. Mitler, special counsel; Bernadine Johnson, assistant counsel; Martin Mayes and Claude Schonberger, consultants to the subcommittee.

Senator LANGER. The meeting will come to order. Call your first witness.

Mr. MITLER. I want to first introduce into the record Senate Resolution 173, the resolution that authorized the existence of this subcommittee. I ask that this be deemed marked "Read" at the time.

Senator LANGER. Subcommittee exhibit No. 1.

Mr. MITLER. I also introduce into the record the resolution authorizing this subcommittee to sit on May 15 and 16, and such other days as might be required to complete these hearings, and this resolution has been signed by all five members of the subcommittee. I ask that this be deemed marked at the moment "Subcommittee Exhibit No. 2."

Senator LANGER. They will both be admitted.

(Subcommittee exhibits 1 and 2 were received.)

[S. Res. 173, 84th Cong., 2d sess.]

### RESOLUTION

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate insofar as they relate to the authority of the Committee on the Judiciary to conduct a full and complete study of juvenile delinquency in the United States, including (a) the extent and character of juvenile delinquency in the United States and its causes and contributing factors; (b) the adequacy of existing provisions of law, including chapters 402 and 403 of title 18 of the United States Code, in dealing with youthful offenders of Federal laws; (c) sentences imposed on, or other correctional action taken with respect to, youthful offenders by Federal courts, and (d) the extent to which juveniles are violating Federal laws relating to the sale or use of narcotics.

Sec. 2. For the purposes of this resolution, the committee, from March 1, 1956, to January 31, 1957, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.



SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1957.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed \$55,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

# RESOLUTION

*Resolved by the Subcommittee of the Committee of the Judiciary to Investigate Juvenile Delinquency in the United States*, That pursuant to subsection (3) of rule XXV, as amended, of the Standing Rules of the Senate (S. Res. 180, 81st Cong., 2d sess., agreed to February 1, 1950) and committee resolutions of the Committee of the Judiciary, adopted January 20, 1955, Senator William Langer and such other members as are present, are authorized to hold hearings of this subcommittee in Washington, D. C., on May 15 and 16, 1956, and such other days as may be required to complete these hearings, and to take sworn testimony from witnesses.

Agreed to this 14th day of May 1956.

ESTES KEFAUVER, *Chairman*.

THOMAS C. HENNINGS, Jr.

PRICE DANIEL.

WILLIAM LANGER.

ALEXANDER WILEY.

Mr. MITLER. At this time, I ask that there be introduced into the record Senate bill 3021, the bill which is under consideration today.

Senator LANGER. It is admitted.

(Subcommittee exhibit 3 was received.)

[S. 3021, 84th Cong., 2d sess.]

A BILL To amend title 18, United States Code, to make unlawful certain practices in connection with the placing of minor children for permanent free care or for adoption

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That title 18 of the United States Code is amended by inserting at the end of chapter 53 a new chapter as follows:

## "CHAPTER 54—INTERSTATE PLACEMENT OF CHILDREN FOR PERMANENT FREE CARE OR FOR ADOPTION

"Sec.

"1180. Placing child for permanent care or for adoption.

"1181. Placing child for permanent free care or for adoption for compensation.

"1182. Coercion or enticement of parent.

"1183. Definitions.

"§ 1180. Placing child for permanent free care or for adoption

"(a) No person, firm, corporation, association or agency, either alone or through any agent or employee or other person, in any manner whatsoever, shall place, arrange for, or assist in arranging for the placement of any child for permanent free care or adoption in any home other than the home of a relative within the third degree of such child, under circumstances requiring or resulting in such child being transported in interstate commerce, unless such placement—

"(1) (A) has received the prior approval in writing of the public department responsible for child-welfare activities in the State in which the prospective foster or adopting parents are domiciled or reside immediately after said placement, and (B) such approval is certified as having been given after an investigation has been made by the said public department or any licensed or authorized child-care agency in the State, selected by the said public department. The investigation shall be made of the circumstances surrounding said proposed placement (including the home environment of the prospective foster or adopting parents, the suitability of the placement for the particular child and whether such placement is in the best interests of the child; or

"(2) is made by a child-care or adoption agency, licensed or authorized to place children for adoption or permanent free care;



"(3) is made after receipt by the foster or adoptive parents of a statement in writing from a public or private child-care or adoption agency, licensed to place or care for children, asserting that the placement is in the best interest of the child, and that that investigating agency has taken into consideration the home environment of the foster or adoptive couple, and the suitability of the placement for the particular child. This provision shall only apply when the public department responsible for child-welfare activities in the State in which the prospective foster or adopting parents are domiciled or reside immediately after said placement, has no statutory obligation to supervise, control, or regulate the importation of children; and

"(4) is made by the natural mother directly and without assistance or guidance of a third person or intermediary in the selection of the foster or adoptive parents.

"(b) Nothing in this section shall be deemed to supersede the Act entitled 'An Act to regulate the placing of children in family homes and for other purposes', approved April 22, 1944 (58 Stat. 193; D. C. Code, title 32, chapter 7b). In the event there is a conflict between this section and the Act entitled 'An Act to regulate the placing of children in family homes and for other purposes', approved April 22, 1944 (58 Stat. 193; D. C. Code, title 32, chapter 7b), the provisions of the latter shall prevail.

"(c) Whoever violates the provisions of this section shall be fined not more than \$5,000, or imprisoned not more than three years, or both.

"§ 1181. Placing child for permanent free care or for adoption for compensation

"(a) Whoever, either by himself or through any agent or employee, or other person, directly or indirectly, solicits, collects, or receives any money or any other thing of value, or the promise thereof, in any manner whatsoever, for placing, or arranging for, or assisting in arranging for, the placement of any child in any home for permanent free care or adoption, under circumstances requiring or resulting in such child being transported in interstate commerce, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

"(b) The provisions of this section shall not apply in the case of money received or paid to a child-care or adoption agency in any State, either public or private, which is authorized or licensed by said State to provide permanent care for children or to place for adoption, as reimbursement for the reasonable and proper expenses of providing services by said agency.

"§ 1182. Coercion or enticement of parent

"Whoever, by himself or through any agent or employee or other person, whether in return for the payment or receipt of money or anything of value, or without any such payment or receipt, in any manner whatsoever persuades, induces, coerces, or arranges for a parent of a child (including a child en ventre sa mere) to travel from or to another place in interstate commerce to place said child for permanent free care or adoption when the placement is made or will be made in return for the payment of money or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

"§ 1183. Definitions

"As used in this chapter—

"(a) The term 'child' means any individual who has not attained the age of 16 years.

"(b) The term 'interstate commerce' means transportation of persons or property among the several States or with a foreign nation, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia or any State or Territory or foreign nation.

"(c) The term 'permanent free care' means the care given to any child on a permanent basis by any person who is not receiving compensation therefor, and is not related to the child, but such term does not include the free care provided to any child by any licensed or authorized child-care agency or juvenile court."

SEC. 2. (a) The analysis of part I of title 18 of the United States Code is amended by inserting after

"53. Indians ----- 1151"

the following:

"54. Interstate placement of children for permanent free care or for adoption---- 1180."

(b) That part of the index to title 18 of the United States Code which describes the contents of part I of such title, is amended by inserting after

"53. Indians ----- 1151"  
the following:

"54. Interstate placement of children for permanent free care or for adoption---- 1180."

Mr. MITLER. This is a special subcommittee of the United States Senate, a subcommittee of the Committee on the Judiciary, composed of Senator Kefauver, who is the chairman, and who is unable to attend here today, Senator Wiley of Wisconsin, Senator Hennings of Missouri, Senator Daniel of Texas, and Senator Langer who is presiding today as chairman. Senator Thyne of Minnesota has been invited to attend. He was a cosponsor of this particular bill. The study of interstate adoption perhaps is one of the specific topics that has been analyzed and investigated by the subcommittee. Hearings were held on the problem in Chicago, Ill., in July and in November in Miami, Fla. These hearings establish that there was a substantial commercial traffic in children across State lines which required legislative action on the Federal level.

On January 23, 1956, Senate bill 3021 was introduced by Senator Kefauver and Senator Langer. Senator Wiley and Senator Thyne were cosponsors.

This bill represents an amplification and in some respects an improvement on 2 earlier bills that were introduced on the same subject, 1. Senate bill S. 1123 introduced by Senator Thyne, and the other 1, Senate bill S. 2281 introduced by Senator Langer and cosponsored by Senator Kefauver. The instant bill covers a great range of situations that the two earlier bills did not and therefore has been moved for consideration at the present time.

S. 1123 and S. 2281 read as follows:)

[S. 1123, 84th Cong., 1st sess.]

A BILL To make unlawful certain commercial dealing in minor children

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That part I of title 18 of the United States Code is amended by inserting at the end of chapter 17 the following new chapter:

#### "CHAPTER 18—COMMERCIAL DEALING IN MINOR CHILDREN

"Sec.

351. Transportation.

352. Coercion or enticement.

353. Transportation of minor child.

354. Exception.

#### "§ 351. Transportation

"Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia, or in any Territory or possession of the United States, any woman or girl with the intent or in pursuance of a plan to induce or coerce such woman or girl to surrender custody, control, or possession of her minor child, or a child to be borne by her, in return for the payment of money or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

#### "§ 352. Coercion or enticement

"Whoever knowingly persuades, induces, entices, or coerces a parent of a minor child (including a child en ventre sa mère) to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or possession of the United States, with the intent or in pursuance of a plan to induce or coerce such parent to surrender custody, control, or possession of such minor child in return for the payment of money or anything of

value, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

“§ 353. Transportation of minor child

“Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia, or in any Territory or possession of the United States, any minor child with the intent or in pursuance of a plan to obtain custody, control, or possession of such minor child, in return for the payment of money or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“§ 354. Exception

“The provisions of section 351, 352, and 353 shall not apply in the case of a parent or other blood relative of a minor child seeking personal custody, control, or possession of such child or seeking custody, control, or possession of such child for another blood relative.”

SEC. 2. The analysis of part 1 of title 18 of the United States Code is amended by inserting after

“17. Coins and currency----- 331”

the following:

“18. Commercial dealing in minor children----- 351”.

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[S. 2281, 84th Cong., 1st sess.]

A BILL To make unlawful certain commercial dealing in minor children

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That part I of title 18 of the United States Code is amended by inserting at the end of chapter 17 the following new chapter:

“CHAPTER 18—COMMERCIAL DEALING IN MINOR CHILDREN

“Sec.

351. Transportation.

352. Coercion or enticement.

353. Transportation of minor child.

354. Coercion or enticement.

355. Exception.

“§ 351. Transportation

“Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia, or in any Territory or possession of the United States, any woman or girl with the intent or in pursuance of a plan to induce or coerce such woman or girl to surrender custody, control, or possession of her minor child, or a child to be borne by her, in return for the payment of money, or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“§ 352. Coercion or enticement

“Whoever knowingly persuades, induces, entices, or coerces a parent of a minor child (including a child *en ventre sa mère*) to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or possession of the United States, with the intent or in pursuance of a plan to induce or coerce such parent to surrender custody, control, or possession of such minor child in return for the payment of money or anything of value, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

“§ 353. Transportation of minor child

Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia, or in any Territory or possession of the United States, any minor child with the intent or in pursuance of a plan or to obtain custody, control, or possession of such minor child, in return for the payment of money or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“§ 354. Coercion or enticement

“Whoever knowingly persuades, induces, entices, or coerces a parent of a minor child (including a child en ventre sa mère) after said parent has crossed State lines with said child (including a child en ventre sa mère) to surrender custody, control, or possession of such minor in return for the payment of money or anything of value, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“§ 355. Exception

“The provisions of sections 351, 352, 353, and 354 shall not apply in the case of a parent or other blood relative of a minor child seeking personal custody, control, or possession of such child or seeking custody, control, or possession of such child for another blood relative.”

SEC. 2. The analysis of part I of title 18 of the United States Code is amended by inserting after

“17. Coins and currency----- 331”

the following :

“18. Commercial dealing in minor children----- 351”

Mr. MITLER. The jurisdiction of the subcommittee over this subject-matter stems from the fact that over 40 percent of the unmarried mothers are under the age of 20 years. This represents the group most definitely affected by the abuses in the adoption field.

Since these mothers, and of course many of the older groups are not able to pay for their confinement and prenatal expenses, and public and private facilities are very restricted, they often become victims of the baby black market and will deal with anyone who is willing to pay their honest expenses.

The poor placement of a child can mean maladjustment which leads to abnormal behavior and conduct and eventually to delinquent conduct.

The proposed statute is not intended as the panacea or cure-all for all the problems in the interstate adoption picture. The real solution is to be found in the improvement and amplification of the community services to the natural parents who place their children out for adoption and to the adoptive parents.

The statute is designed to combat the interstate commercial traffic in children. It is a startling fact that under the existing law the sale of children over State lines is not a crime. This statute makes it one.

It is not directed at the adoptive parents or the natural parents but at those individuals who engage for profit in this odious interstate traffic.

In addition, the statute provides for a simple and effective method of giving all children a strong measure of protection when they are placed out for adoption across State lines.

Even in the event where there is no profit motive this method simply requires that there be an investigation of the suitability of the home for the particular child who is going into it before the child is sent across State lines.

The first half of the hearings will be devoted to a presentation of the problem that the bill is designed to meet. The witnesses will be people who have direct knowledge of the interstate baby traffic by their personal participation. Some of the unmarried mothers who released their children and professional baby brokers will testify and some others have been subpoenaed.



I have also asked the press to be extremely careful and follow the suggestions of the subcommittee to delete certain names upon request and in certain instances refrain from taking pictures.

It is necessary to bring this problem to the surface. So much of it is concealed that once it has been brought out on the surface we can better understand how to cope with it.

The afternoon session will be devoted to testimony from persons in the child-welfare field, from public and private agencies, and other interested public officials who will evaluate the bill under discussion, and we welcome, the subcommittee welcomes any suggestions as to changes in the statute.

Mr. CHUMBRIS. Mr. Chairman, Senator Wiley, do you have an opening statement on the subject?

### STATEMENT OF HON. ALEXANDER WILEY, A UNITED STATES SENATOR FROM THE STATE OF WISCONSIN

Senator WILEY. I have a little statement I would like to make, Mr. Chairman.

As you know, this is a continuation of activities that we went into during the time I was chairman of the committee. I want to make a short statement before the hearings again.

We are here to look into a very serious situation, the prevalence of baby racketeering, as they call it.

We are also going to consider a specific bill. I don't know whether this bill in its present form is the answer to the problem or not. I do think that it is necessary to have public awakening to the situation.

If the bill is not satisfactory, we can change that, but it presents a problem that all Americans should be vitally interested in.

I do know that we all want to put an end to the practices that are evil, that have been practices that have been preying on mother love. I do know the natural desire of childless couples to adopt and raise babies must not be sucked dry by the leeches of purely mercenary baby racketeers who care nothing for the feelings of the parents or for the future of the babies.

I do know that the adoption of a baby is a sacred matter, a trust which should be assumed only by couples who have proved that they are capable and anxious to raise the child with loving, protective care, as they would their own children, if they had been so blessed.

I do know that careless or mercenary placing of a child in a bad home is like planting good seed in poisoned ground. A bad home is the beginning of a juvenile delinquent.

Bad home life denies the child the right to grow up straight and fine. A bad home life casts a child out into the street where lurking evil warps the future.

Adoption racket, placing babies in warped homes, just for the sake of greed, should be stopped, should be stamped out in America.

This is a subcommittee to study juvenile delinquency in the United States so that our country may in the future wax stronger instead of weaker.

We are here today to study one of the causes of juvenile delinquency in the United States called the baby racket.

I am not sure that this bill is the one to do it. We want to know the facts, and then we can take action and I want all America to know the facts, an alert America, we say, is a safe America.

We have been talking largely in terms of keeping America alert so we don't get another Pearl Harbor in the world of war.

There are a lot of other fields that we have got to be alert in, and this is one of them.

I want to express my appreciation to all of those that assisted this subcommittee in seeking to find the facts, and giving the facts so that the average American can have an understanding of the problem.

This delinquency problem is a serious sickness in the life of America of the future. The youth of today are going to be the statesmen and the preachers and the leaders of tomorrow. What will that quality be?

Their quality will determine the stability and strength of America. Consequently, this is one angle that we are investigating to see if juvenile delinquency can be minimized, and that these innocent children who come into the world without their saying so, can get homes that are fit for them to live in, and grow up in, as men and women of stature.

Thank you, Mr. Chairman.

Senator LANGER. Call your first witness.

Mr. MITLER. I will be the first witness.

#### TESTIMONY OF ERNEST A. MITLER, SPECIAL COUNSEL, SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY OF THE COMMITTEE ON THE JUDICIARY

Senator LANGER. Do you solemnly swear that the testimony you are about to give in the pending matter shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MITLER. I do.

Mr. CHUMBRIS. Will you please state your full name.

Mr. MITLER. My name is Ernest Albert Mitler.

Mr. CHUMBRIS. What is your occupation?

Mr. MITLER. I am special counsel for the United States Senate Subcommittee To Investigate Juvenile Delinquency.

Mr. CHUMBRIS. Have you had any previous experience before joining the subcommittee in dealing with adoption practices?

Mr. MITLER. Yes, I was 10 years an assistant district attorney in New York County, and during the course of that time I engaged in the investigation and prosecution of illicit adoption practices in New York State.

Mr. CHUMBRIS. Since joining the subcommittee, have you made an investigation of the adoption practices throughout the country?

Mr. MITLER. Yes, I have; and the purpose of my giving testimony at this time is to correlate and pull together the facts so that this can be presented as a united picture.

Mr. CHUMBRIS. There were two previous hearings on adoption practices throughout the United States; is that correct?

Mr. MITLER. Yes; one was held in Chicago in July, and the second hearing was held in Miami in the month of November.

Mr. CHUMBRIS. Now, at this time you wish to give to the subcommittee the findings of your investigation throughout the country?

MR. MITLER. Yes, I want to paint the broad structure and the witnesses who will testify thereafter will fill in the picture. I want to say first that with respect to the proposed statute, it does not affect agency placements in any manner whatsoever. It specifically exempts child welfare and licensed child placing agencies from its impact. So that in no manner whatsoever does it have any impact on licensed agencies.

Another point with respect to the statute, it does not eliminate independent placements. It simply requires a certain standard. It imposes certain number of safeguards. The control of independent placements still remains under the statute in the hands of the respective States. All this statute requires is that if a child is going to be placed by an individual from one State to another, that the time of the investigation be advanced. The statute is not directed at natural parents, and it is not directed at adoptive parents. It is directed at the middlemen and the intermediary.

I think that is very important to remember, and if the wording of the statute now requires some clarification that certainly will be done, but the intent was to direct the statute at the intermediary.

SENATOR WILEY. Could you be a little bit more specific about the middleman and the intermediary, so that those who listen understand that term?

MR. MITLER. The middleman is the person who arranges, whose judgment is used as to where the child will go. The middleman, the intermediary, is the person who makes the arrangements with the natural parents. He is the person whose judgment is exercised in the determination of what will happen and where the child will be placed.

The intermediary, the middleman, very often tries to pretend that the natural parents are making the placement. It is not the person who makes the mechanical transfer; it is the person whose judgment is exercised in the determination where the child is to go—is the middleman.

I think the illustrations I give will bring out graphically who the middleman is.

Now, there is one part of the statute that does speak about out-of-the-country and overseas adoptions. The statute is not intended to reach out all over the world. It is intended for the following kind of situation:

When I was in the New York district attorney's office, we had a case in which the children were being smuggled in for a profit from the Province of Quebec.

Now, some of the arrangements were being made in New York County, and the statute is directed at these intermediaries, these individuals who reside in New York County who made those kinds of arrangements.

Another kind of situation it is directed at, and I present this from experience I had when I was not a member of the committee, and simply as a way to bring to you what is occurring, the kind of situation that we had in mind.

During this period I was doing research in the field and working for a magazine. In order to get material, I went in the Province of Ontario to a large-scale commercial maternity home and, as understood by the magazine, I presented myself as a prospective adoptive

parent from the United States. The proprietor of the home stated that each year this home in Ontario placed out and had over 800 children.

In the course of conversation she said some of the children, by arrangement in the United States, got into the country. She specified California and she said she did not know how the matter was handled across the border.

Now, the statute would be directed at anyone in the United States making that kind of illicit arrangement, assuming from the manner in which they spoke that the children were smuggled across.

Now, that deals with the international part of the statute.

I want to illustrate what we mean by the interstate baby racket. I think that can be most clearly brought out by an interview I had with an attorney whom I have notified and have invited here. He is an attorney now in Beverly Hills, Calif. I have notified him by registered mail, and I have gotten an answer from him stating that he is interested in cooperating but will not be here—I told him his name would be mentioned at the hearing. His name is Louis Most, and he lives at 328 South Beverly Drive in Beverly Hills, Calif.

At the period when I was making these investigations, I presented myself, through a phone call, to Louis Most, as a person who wished to adopt a child. This was in the month of September 1954. I went with another investigator to his office in Beverly Hills, Calif.

When we arrived there, Mr. Most had no knowledge of our background. He stated immediately that anyone who went to the trouble to come to his office, that was indication on the face of it that they were a worthwhile adoptive couple, and that they should receive a child. He stated that he wanted, in advance, \$1,500. This was his pattern: He stated that the rest of the costs would be somewhere—and he was not specific—but somewhere about double that, although it would vary, according to the case.

He then went on to say that when we went to the welfare, after we received the child, we should make it appear that we did not deal with Mr. Most, but that we had met the natural mother on our own, on our own initiative, and that Mr. Most came into the picture afterward.

He also stated that we should withhold from the welfare department in the investigation the amount of money involved. He also told us, when we stated that we were nonresident, that it was very easy to do it interstate, and we stated we were going to move to Portland, Oreg., and he said he would be glad to send the child up there; the costs would be exactly the same. And that it is a very easy matter to do it interstate.

He stated that he had, he had been doing it for a period of 10 or 12 years, and that some years ago he had 8 or 10 cases, and at that period he had about 12 or 15 a year.

I think the most important facet of this was the fact that without any knowledge of our background he was willing to place a child with us, having no knowledge whether we would be a suitable parent for the prospective child.

Now, during that same investigation, before I joined the committee, I interviewed the proprietor of an ice-cream parlor in the immediate neighborhood.



Mr. CHUMBRIS. Before you go to the next case, I have a letter here from Louis Most, dated May 2. Is that the letter that you were referring to in your testimony?

Mr. MITLER. That is the receipt, the letter I received back from Mr. Most.

Mr. CHUMBRIS. The letter says:

DEAR MR. MITLER: This is to acknowledge your letter dated April 30, 1956, and to assure you of my fullest cooperation.

My clients are interested only in independent adoptions that comply with the California and Federal law. It is not possible for me to be present on May 16, 1956, at the hearing, but please feel free to contact me directly for any facts that I can supply.

Very truly yours,

LOUIS MOST.

Mr. Chairman, I would like to have this introduced into the record. Senator LANGER. It will be marked "Exhibit 6."

BEVERLY HILLS, CALIF., May 4, 1956.

Re Senate bill S. 3021.

ERNEST A. MITLER,

*Special Counsel, United States Senate, Committee on the Judiciary,  
Washington, D. C.*

DEAR MR. MITLER: This is to acknowledge your letter dated April 30, 1956, and to assure you of my fullest cooperation. My clients are interested only in independent adoptions that comply with California and Federal law.

It is not possible for me to be present on May 16, 1956, at the hearing, but please feel free to contact me directly for any facts that I can supply.

Very truly yours,

LOUIS MOST.

Senator WILEY. You read it.

Mr. MITLER. The letter that was sent to him said that his cases, and his name would be mentioned at the hearing, due to his deep involvement in the adoption picture.

Senator WILEY. Did he tell you where he got the babies?

Mr. MITLER. He stated that he was known in that area, that doctors referred the girls to him, but principally all up and down the west coast he stated that it was by word of mouth. One mother referred another girl to him. And he stated that was the manner in which he got most of the girls.

Senator WILEY. Did he say what he did with the money?

Mr. MITLER. He said that some of the money was used for prenatal expenses.

He was not explicit about it. He said some went to hospital bills; some went for prenatal expenses, and that in some cases he maintained the girls for several months before birth. But he stated that he must receive \$1,500 in advance, because he wanted \$1,500, he wanted it in advance right then and there, as a token that we really intended to adopt the child, because he stated there had been occasions where he had a child available and he hadn't received the deposit, and then the people backed down on him, and he wanted a substantial indication of good faith. That was the reason that he gave.

Senator WILEY. Did he say what he was going to do with the second \$1,500?

Mr. MITLER. He was not specific about it, Senator Wiley. He enumerated what his expenses were. I assumed the rest of it was intended as a legal fee.

Senator WILEY. That wasn't specific, though, he wouldn't say that he told you that?

Mr. MITLER. No, he stated that a portion of it was a fee. He did not give us a mathematical breakdown, figure by figure.

As a matter of fact, we found in our investigation that these intermediaries represent that the money goes to the mother and for other expenses, and when it is nailed down, eventually, in many cases, we find that the mother paid her own hospital bill.

We find that there were no prenatal expenses, and that all of the money was absorbed by the intermediary. That is the situation that we find quite often.

Of course, the adoptive parents are not in a position to know.

Senator WILEY. Are there State agencies in California that handle children from situations like this?

Mr. MITLER. Yes. California has one of the best adoption agency programs in the United States.

During World War II there was a tremendous increase in adoptions in California. California only had two agencies then.

Shortly after the war, there was a large citizen group formed in California, and since then there has been an amplification of the agency program, and the entire State is serviced now by adoption agencies.

The Department of Social Welfare in the State of California, under Miss Kennedy, is one of the best ones in the country.

There are facilities and strong facilities in the State of California.

Senator WILEY. I presume there are church agencies, also?

Mr. MITLER. There are adoption agencies representing all the church groups, and each group is well and strongly represented, and does agency work.

Senator WILEY. My question leads up now to this question:

In your conversation with him, was there any utilization of any of these legitimate agencies?

Mr. MITLER. In the conversation he said that the agency work was unsatisfactory. He said that he had relatives who had worked at one of the agencies in Los Angeles, and that he knew how ineffective they were. He ridiculed the agencies, and made disparaging remarks about them.

In other words, the net effect would be to discourage anyone from going to the agencies.

Senator WILEY. Was he going to get his baby from any of the agencies?

Mr. MITLER. No, he was going to get the baby from one of the mothers who came to him, who had come directly to his office, having heard from word of mouth from other mothers about Mr. Most.

He was going to circumvent and duck the entire agency program.

Senator WILEY. You say you drew the conclusion that they came to him because of word of mouth. What I am getting at, is there any solicitation in this business?

Mr. MITLER. Yes; there is, but not according to my investigation in his situation. There definitely is in other situations I am coming to, and one that we will strongly develop today. But in that particular situation I suppose the solicitation is that word is out that he is

available, and that one mother will repeat it to another, but as to affirmatively sending runners out, I couldn't say that is the case. There is another case in California which took place up in San Francisco where I interviewed a woman who had been just released from the penitentiary and she told me of a situation where there were definite runners operating in San Diego, and Las Vegas and Reno, and she had been one of them herself. I think that situation has been cleared up, in which they would receive a certain sum of money for referring the unwed mother to a group in Los Angeles.

Now, there was solicitation in that particular instance. But not in Mr. Most's instance, from what I can gather.

I want to move on to one other situation, and I think this is very helpful to know; a woman who operates an ice cream parlor, in the immediate neighborhood of Beverly Hills was interviewed by me. She had been notoriously involved in the interstate baby traffic, and I think more than anyone I ever spoke to she more vehemently brought out the dangers and evil of it.

She told me that she had started to operate with an abortionist in Salt Lake City, Utah, and she started placements of children. She said in the course of the years she saw so many tragedies happen that she felt that the wisest thing for everyone to do was to go to an agency, and she was a very strong advocate of the social agencies in California at the time.

I think our other hearings have developed the nature of this traffic, but something, a new element has been found in the course of this investigation, especially in the last 2 or 3 months. Previously it had been believed that there was manipulation, and an operation with the element of profit involved. But now for the first time in the course of the investigation we have found a link between the underworld and the baby adoption ring.

I don't want to infer that the underworld has taken it over; what I do want to bring out is that the temptation of the profit motive has hred into this interstate baby traffic such an undesirable element as hoodlums, and as a notorious underworld figure from Chicago.

Now, our investigation established, and the witness has been subpoenaed today, that a small group of lawyers operating from Chicago, Ill., have been placing children across the country for profit.

Yesterday in the executive session, of course the name will not be brought out, we heard of a case in which \$3,200 was paid to Chicago attorney Gale Marcus. He is one of the members of this group.

Today there will be testimony from the natural mother in this group, and we can affirmatively establish what the profit is.

The individual who worked for Mr. Marcus, who has his office at 1 North LaSalle Street, is William Manella.

Our investigation established that Mr. Manella reached out and solicited in all parts of the country, unmarried mothers, using every method imaginable. Our investigation established that acting on behalf of Mr. Marcus, in one instance, Mr. Manella, assuming the name of William Anderson, and making contacts through Mr. Marcus' office, went to Lakeland, Fla.

In Lakeland, Fla., there was a Chicago girl who had given birth. The child had been placed out by a local judge, a justice of the peace. Mr. Manella appeared, assuming the name of Anderson, and by the

use of threats and abuse, managed to obtain the return of that child from the local couple with whom that child had been placed, and that is, Manella, and the natural mother, went off.

We are not sure where the child went, but we have been able to establish that he was sent there on this mission by Mr. Marcus, and the Florida judge is here today to testify to those facts.

Now, at this time I would like to bring up two charts to establish exactly who William Manella is.

I might add, perhaps, the charts are somewhat graphic. But the intent is to show the background of the man and to show the type of element that is moving into this field.

I ask that the first chart on the right, which is right before us, be deemed marked "Subcommittee Exhibit No. 4."

This shows the record of William Manella. The man who posed as William Wells, William Anderson, who was the employee of and operated right from Mr. Gale Marcus' law office.

Examination of the record shows that he was arrested and convicted of armed robbery. He was arrested in connection with a strong-arm operation in Chicago.

Our investigation disclosed that Mr. Manella was a strong-arm man, bodyguard and chauffeur for Joseph Glimco, one of the established and notorious figures in the present Chicago crime syndicate.

The first exhibit, exhibit No. 7 shows Manella's background, and Lt. Joseph Morris of the Scotland Yard Squad in Chicago, has identified him in the manner I just described, as the muscle-man for Glimco.

Now, the other picture is, the other exhibit I ask be deemed marked "Subcommittee Exhibit No. 8" and that is an exhibit which shows Manella in his relationship with Glimco, and on the other side as a coordinator and field representative for Gale Marcus, and incidentally, other lawyers who are operating the interstate baby racket.

Senator LANGER. The two illustrations will be marked and inserted in the record as exhibits 7 and 8.

(Subcommittee exhibits 7 and 8 were received.)

Mr. MITLER. Now, incidentally, the tie between Glimco and Manella was strongly established when Manella operated a deodorizing business on Blue Island Avenue in Chicago, in the same premises as Glimco.

There is other evidence to establish that each week he turned over the proceeds of the business to Glimco.

Now, one of the methods used by Manella, and this is one of the things covered by the bill, solicitation out of the State, was to locate children outside of the State of Illinois.

On behalf of Mr. Marcus, Manella went to the place where the trucks came in to Chicago from all over the country, and there he would offer the various truckers a sum of money if they could locate a child for him.

In this one instance which was rather recent the trucker actually went down to Richton, Miss., and there is no culpability there at all among the people down there, because they rejected it, but the trucker, on Manella's behalf, went down to Richton to the Emory Memorial Home, which is a, as I understand, a licensed agency operating there.



## *Record of* **WILLIAM V. MANELLA**



AS VITO MANELLA, ARRESTED MAY 29, 1942 FOR VIOLATING THE ILLINOIS INTERNAL REVENUE LAW (CHICAGO).

SEPTEMBER 1, 1942, ARRESTED; SEPTEMBER 11, 1942 PUT ON PROBATION FOLLOWING SEPTEMBER 1 ARREST FOR THREE COUNTS OF ARMED ROBBERY, TO WHICH HE PLEADED GUILTY.

JUNE 15, 1950, ARRESTED BY U.S. SECRET SERVICE IN CHICAGO, ILLINOIS ON CHARGE OF POSSESSION AND PASSING COUNTERFEIT MONEY.

JANUARY 8, 1954, ARRESTED ON CHARGE OF LARCENY IN WHICH HE WAS INVOLVED IN TEARING MORE THAN 100 DEODORIZING MACHINES MANUFACTURED BY A RIVAL COMPANY OFF TAVERN WALLS.

SEPTEMBER 20, 1954, REFUSED TO ANSWER QUESTIONS BEFORE U.S. GRAND JURY DEALING WITH LABOR RACKETEERING DURING AN INVESTIGATION OF THE ACTIVITIES OF JOSEPH GLIMCO.

# The Two Sides of WM. V. MANELLA

'BUSINESS ASSOCIATE', BODYGUARD AND  
'MUSCLE MAN' OF (JOEY) GLIMCO.

ABOUT JOSEPH PAUL (JOEY) GLIMCO

BORN IN ITALY IN 1909. SERVED A MAN IN A HOLD-UP WHEN HE WAS 20 YEARS OLD, AND HAS BEEN ON POLICE BLOTTER EVER SINCE. KNOWN TO HAVE BEEN ARRESTED 22 TIMES.

HIS LIFE HAS BEEN A RECURRENT PATTERN OF VIOLENCE, BOMBINGS, EXTORTION AND RACKETEERING.

ONLY IN THE LAST THREE YEARS HAVE VARIOUS LAW ENFORCEMENT AGENCIES SEEMED TO INTEREST THEMSELVES IN GLIMCO'S WAY OF LIVING AND FINANCES.

THE BEGINNING OF THE INVESTIGATION INTO GLIMCO'S AFFAIRS TOUCHED OFF NEW GANG MURDERS OF MEN KNOWN TO HAVE TALKED TO POLICE.

GLIMCO IS NOW UNDER INDICTMENT, CHARGED WITH CONSPIRACY TO VIOLATE THE FEDERAL ANTI-RACKETEERING LAW FOR HIS ACTIVITIES IN THE FULTON ST. POULTRY MARKET. THE INDICTMENT WAS RETURNED DECEMBER 1954. HE HAS FOUGHT IT EVERY STEP. HE IS NOW SCHEDULED TO GO TO TRIAL BEFORE FEDERAL JUDGE WALTER J. LABUY ON SEPTEMBER 24, 1956.



'COORDINATOR AND 'FIELD REPRESENTATIVE'  
FOR GALE MARCUS.

GALE MARCUS IS A CHICAGO ATTORNEY, ACTIVE IN CHILD ADOPTION CASES.

MANELLA'S DUTIES WERE VARIED. HE WAS PRINCIPALLY CONCERNED WITH TOURING THE COUNTRY "SCOUTING" FOR GIRLS WHO WERE LIKELY PROSPECTS FOR MARCUS' LEGAL SERVICES.

HIS METHODS OF OPERATION WERE OFTEN PERSUASIVE, GOING EVEN AS FAR AS APPLYING UNDUCE PRESSURE ON A JUDGE.

and the trucker attempted to get a child to be sent to New York for placement by Manella.

In the particular instance, Gale Marcus had spoken to this trucker, and had confirmed this arrangement initiated by Manella.

Now, I just want to touch on two other situations, and then go to the other witnesses.

In most of the recent Chicago situations that I have investigated that concerned this group, Manella had made the contact with the natural parents.

At the present time there is a child, one of twins, in Waukegan, Ill., Victory Memorial Hospital. In that situation, Manella had approached the mother, a girl who recently was convicted in a notorious armed robbery case.

Now, Manella's contact with that girl had resulted in the placement of four of her children by Gale Marcus on an interstate level.

Senator WILEY. I notice you have attempted to subpoena him, but apparently haven't succeeded, is that right?

Mr. MITLER. I went to Chicago, Ill., Senator Langer and Senator Wiley, and I went to the home of William Manella. I was told he was at a bowling alley. I went to all the bowling alleys in the neighborhood. I was told he was in Wisconsin, in Walworth County. I devoted a week trying to find him, and the only report I got, was his wife told me that he had consulted a lawyer, and the lawyer told him it was unnecessary for him to cooperate with the committee.

And in the meantime, many of the law-enforcement agencies in Illinois and in Wisconsin are attempting to locate him.

Mr. CHUMBRIS. Mr. Chairman, at this time we have a letter from the United States Marshal for the Northern District of Illinois, which explains the trouble that they went to in trying to locate Mr. Manella, and were unable to serve him.

I would like to have it marked for identification, and introduce it into the record as an exhibit.

Senator LANGER. It will be admitted.

(Subcommittee exhibit 9 was received.)

DEPARTMENT OF JUSTICE,  
UNITED STATES MARSHAL,  
NORTHERN DISTRICT OF ILLINOIS,  
Chicago, Ill., May 14, 1956.

Re William V. Manella.

Mr. ERNEST MITLER,

*Special Counsel, Senate Committee on the Judiciary,  
Senate Office Building, Washington, D. C.*

DEAR Mr. MITLER: I am herewith enclosing subpoena, unexecuted, which you had forwarded to us earlier, along with a photograph of the subject person. We have endeavored to make service but to no avail. I am also enclosing a clipping from a newspaper dated May 9 which showed information on this certain subpoena. This information was not released from this office, and we have good reason to believe that it was issued from someone in Washington, D. C.

When this type of information appears in our local newspapers it makes the work of this office more difficult. In the past, we have never released information regarding any subpoena out of this office. As a matter of fact, grand jury subpoenas are suppressed by order of the district courts.

Sorry that we were not able to make this service for you and hope that in the future will have more success.

Sincerely yours,

WILLIAM W. KIPP, Sr.  
*United States Marshal.*

## UNITED STATES OF AMERICA

## CONGRESS OF THE UNITED STATES

TO WILLIAM V. MANELLA, 7229 North Bell, Chicago, Ill., Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the Subcommittee on Juvenile Delinquency of the Senate of the United States, on May 15 and 16, 1956, at 9 a. m., at their committee room 424, committee room of the Senate Committee on the Judiciary, Senate Office Building, Washington, D. C. then and there to testify what you may know relative to the subject matters under consideration by said committee.

Produce all records, papers, documents, telephone numbers, letters in any way connected directly or indirectly with your securing, soliciting, contacting pregnant girls for the purpose of assisting and arranging for the placement of their children for adoption.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To Ernest Mitler, special counsel, or United States marshal, Chicago, Ill., to serve and return.

Given under my hand, by order of the committee, this 23d day of April, in the year of our Lord one thousand nine hundred and fifty-six.

ESTES KEFAUVER,  
*Chairman, Subcommittee on Juvenile Delinquency.*

[Back of subpena]

May 7, 1956—Endeavored at 7220 North Bell. Spoke to Mrs. Manella. Wm. Manella not home for couple weeks.

May 7, 1956—Called by phone; spoke to Mrs. Manella. Still hasn't seen or heard from her husband.

May 10, 1956—Called by phone; spoke to Mrs. Manella. She received a phone call from her husband. Whereabouts unknown.

May 10, 1956—Endeavored at 1229 Blue Island, place of business. Sold out 1 year ago.

SALVATORI R. CAWELLI,  
*Deputy United States Marshal.*

Several other endeavors made between May 11 and May 15, 1956, proved unsuccessful. Unable to locate.

WILLIAM W. KIPP, Sr.,  
*United States Marshal, Northern District of Illinois.*

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[From the Chicago American, May 9, 1956]

## WILLIE MANELLA SOUGHT FOR SENATE QUIZ

United States Marshal Kipp today sought to serve a subpena calling for the appearance of Willie Minella at a Washington hearing of the United States Senate (Kefauver) Judiciary Subcommittee,

Manella, about 42, is known as the former bodyguard of Joseph P. Glimco, trustee of Local 777, AFL Taxicab Drivers, and alleged syndicate representative in several Chicago unions.

The subcommittee hearings, May 15 and 16, will concern pending legislation designed to regulate interstate baby adoptions.

Minella's whereabouts are unknown, although he is believed to be in Chicago. Anyone having information as to where he can be found may notify Marshal Kipp or telephone the city editor of the Chicago American who will protect the identity of anyone furnishing information to this newspaper.

Minella refused to testify before the Federal grand jury here in 1954 when summoned in the investigation of Glimco's activities.

Glimco was indicted subsequently on charges of violation of the antiracketeering statute.

Mr. MITLER. Just to complete the picture, as I stated before, the mother of that child in the hospital in Waukegan, Ill., whom I interviewed had authorized the placement of four of her children on an



interstate level through Manella to Marcus. Mr. Marcus' brother-in-law, Emanuel Gordon, had appeared in the capacity of front man in this incident in Waukegan, and he had induced the mother to separate these twins which are in the Victory Memorial Hospital in Waukegan, against hospital advice, to remove one twin that had been an incubator baby at the weight of 4 pounds 10 ounces.

I am told that is an unwise procedure.

The reason for that was to quickly effect the placement which Mr. Gordon did by physically carrying the child over from his car to the Waukegan Courthouse in his arms.

In other words, the situation was that it was Mr. Marcus' case. Mr. Gordon went up to Waukegan, where he maintains law offices in that county, and Mr. Manella had made some of the initial arrangements, so you have the interaction between the three.

SENATOR WILEY. You mean to say that there were four illegitimate children from the same woman?

MR. MITLER. I can't say that they are all out of wedlock—she has had two husbands. The present twins are the offspring of a man who was involved in these armed robberies.

The situation is that she is married, but the father of that particular child is in Joliet, in the State's prison.

As a matter of fact, what happened was, a fifth child, that is now with the couple, was being placed out, but Mr. Marcus represented this natural mother, when she was arrested in the robbery case, and he himself was arrested when interfering with a subsequent arrest of the girl, and at that time this other child was returned.

Now, I think the important thing is, and I want to get to the witness, is that in Illinois, on July 14, 1956, a law was passed making, baby selling a crime.

We have made a study to see whether this situation could be controlled on a State level. This subsequent study has shown that since that date, the activity has flourished in complete defiance of the law.

Harry D. Cohn, who testified before the committee in Chicago and who was a man who gets about \$2,000 a child, and operated very extensively, has continued along in his merry fashion, and since that date I have counted 11 interstate placements in which Mr. Cohn uses the front or name of some other lawyer, these children going to New York, Missouri, Detroit, Mich., and to Kansas.

The purpose of this study and the net result has been, and I think the state's attorney will be here from Cook County, to establish that it is almost impossible to control this matter on the State level.

Just returning for a second to the entrance of the criminal element in this picture, there were two other instances that came to our attention. One was an instance in New York City, whereby a man with a criminal record, Michael Cermolla, working with a woman, Margaret Gamble, devised a pattern of approaching unmarried mothers who were living in adoption agency shelters during the prenatal period, when they visited the corner drugstore and offering them \$1,000 to leave the shelter.

When I was in the district attorney's office, we followed her to the car of this man with a substantial criminal record.

And another instance is in the Canadian interstate baby smuggling case, we found that the girl who was carrying most of these children over the border was the widow of a slain, notorious gangster in Montreal, by the name of Goodman.

I am not trying to suggest that the crime element of the Chicago syndicate has taken this over, but I am trying to highlight a danger point.

That completes the remarks I have. The witnesses will fill in the picture.

Senator LANGER. Any questions, Senator Wiley?

Senator WILEY. Now, I think you made the statement that in 1955, Illinois had attempted to correct the situation by making the sale of children a crime; is that right?

Mr. MITLER. Yes, Senator Wiley.

Senator WILEY. Just what does the law provide? How does it read? Do you remember?

Mr. MITLER. The law provides, that any person who receives compensation for the placement of a child has violated the penal law of the State of Illinois.

It also provides that any person who gives compensation for the placement of a child has violated the penal law of the State of Illinois.

Of course, it exempts from its operation the fees or salaries paid by licensed child adoption agencies.

That is the gist of the law. The penalty section provides that the first conviction of offense under this act may be punishable by imprisonment in the county jail, or house of correction for a period of not less than 3 months, nor more than 1 year, or by a fine of not less than \$300, and not to exceed \$1,000.

And upon conviction for a subsequent offense, the punishment will be imprisonment in the penitentiary for not less than 1 year nor more than 10 years.

Senator WILEY. Why isn't that enforceable? Is it a question of getting proof? proof?

Mr. MITLER. I think it is a problem of getting proof. The adoptive couples who are necessary witnesses in the first place, you could understand, are not anxious to cooperate. In the second place, they are not in the State of Illinois, and it requires an extremely extensive investigation.

Of course, many of these placements happen generally in the State of Illinois, and I assume, with the material that has been gathered there will be an investigation, as I know there is in the State's attorney's office in Cook County, and I assume they will be able to prosecute some of these cases, but not the interstate ones.

Senator WILEY. How would the present suggested bill correct that situation?

Mr. MITLER. In the first place, the present bill is a Federal bill. That means that the witnesses could be gotten from wherever they are, the territories, or in the 48 States. I mean, for example, if this situation occurred in Chicago, and the children went to New York and Detroit, there would not be a problem of interviewing, there would not be a problem of gathering your facts, and there would not be a problem of subpoenaing the witnesses.

That would be probably one of the ways. It must be remembered that many smaller communities just do not have the facilities to send

law enforcement officers all over the United States, and if this activity takes place in a small community they practically have a license to do anything they please. They just can't enforce any kind of control locally.

Senator WILEY. Does the present bill preempt the rights of the States to carry through?

Mr. MITLER. It in no way affects the rights of the States in any manner whatsoever. In no manner. There is no conflict, and in fact in the District of Columbia the bill says that if there is any conflict between the District Code, and this bill, that the District Code shall prevail.

This afternoon I am introducing some proposed amendments, because we have had a chance to think about it, and I also want to extend that provision to the Territories of the United States. It does not interfere with the State laws at all in any manner whatsoever.

Senator WILEY. Supposing the sale, as you might call it, of a child born in Illinois is made in Illinois. Could that be made a Federal offense?

Mr. MITLER. No, it would not be, because the bill lays down as one of the conditions that the child be placed outside of the State, the original State.

In other words, the child has to go across State lines. So, if the placement was within the State of Illinois, the bill would not affect it unless the natural mother was solicited from Duluth by Mr. Arkima in Chicago. It might affect that kind of situation. But the answer is it would not affect the situation you just discussed, Senator Wiley.

Senator WILEY. But is the Illinois statute broad enough, so that if a child, the sale of a child is handled, say, born in Iowa, and transferred to a family in Illinois, do you think the Illinois statute would be broad enough to take care of that situation?

Mr. MITLER. Well, as I understood the original question, under those facts there might be concurrent jurisdiction.

Senator WILEY. I think it is very important to get that on the record, because we want to know definitely that in your opinion, at least, that if money were paid in Illinois for a child gotten in Iowa, that that would be a violation, you think, of the Illinois statute, and also a violation of the contemplated Federal statute.

Mr. MITLER. Like narcotics and auto theft, it would be a matter of concurrent jurisdiction, such as in drugs and the auto situation.

Yes, it would be concurrent jurisdiction, under the situation you pose, Senator Wiley.

Senator WILEY. You have been in this quite a while, and you know the situation. Do you think that the attempt to curtail it by the statutes of the different States has resulted in any curtailment of the activity of these people who profit, or did I understand you to say it has really increased?

Mr. MITLER. In the Illinois situation, I will say it remained status quo, but the status quo was a lively one. There was high activity, and the high activity continued.

Florida enacted a statute several years ago intended to cover this. Our investigation in Florida found that this condition was rampant at the interstate level, and no prosecution has been initiated or, to my

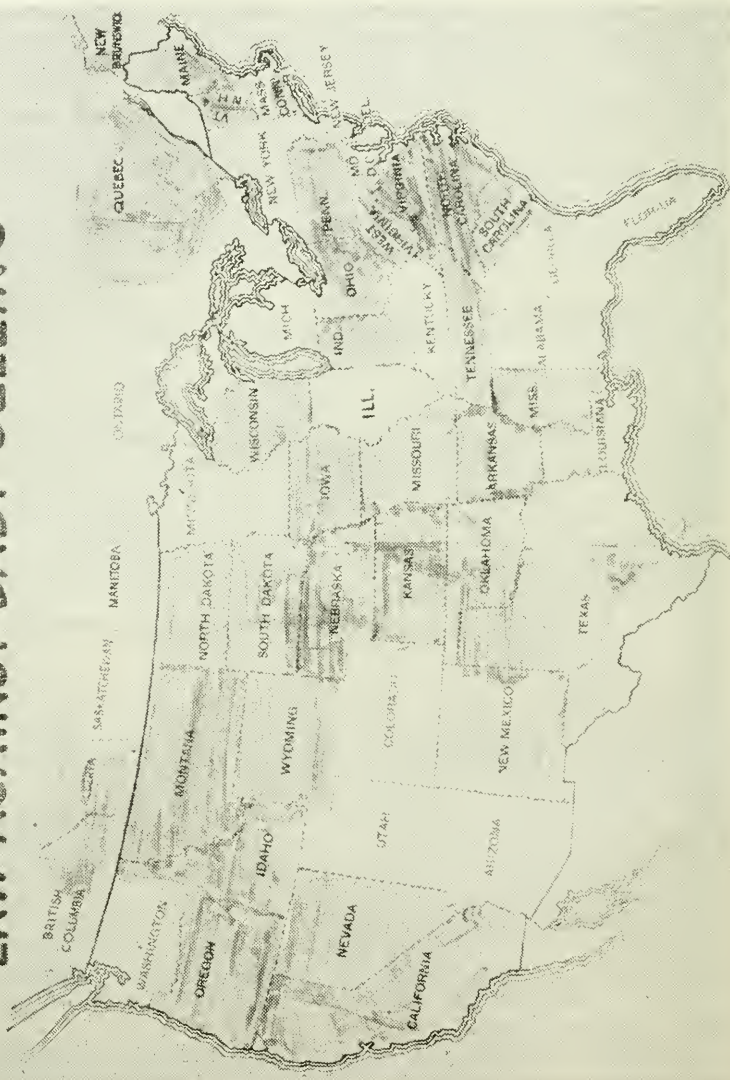


knowledge, attempted, and the State statutes, when they do exist—would you, Mr. Mays, could you bring up the chart. I would like to show you, Senator Wiley—I don't want to diverge, but the fact is that 33 States have no law against baby selling.

We have used it before. So I ask that it be marked "Subcommittee Exhibit No. 10."

(Subcommittee exhibit No. 10 was received.)

STATES WHERE THERE IS NO CRIMINAL  
LAW AGAINST BABY SELLING



Now, the States that are in white have a law against it, and in those States there has been nothing effective done, and principally for the reasons I described. It is very difficult to enforce on a local level.

Are you able to see it, Senator Wiley?

Senator WILEY. I can. Just one other question. I have another committee meeting I should be attending.

I am wondering outside the field of law whether or not there should not be more work done in the field of State agencies, church agencies, and so forth, so that the opportunity does not present itself when a mother gets pregnant, who would have an illegitimate child, that her opportunity for that mother without publicity, to be given consideration, so that she wouldn't be the mark of these racketeers in human life.

It seems to me that there must be action in that direction by thinking people because there is a great public policy involved, we are breeding the next generation who have to take over the running of this country, and we want to make sure that, as I said in my opening statement, that they are people of stature, quality, who understand the real facts and the challenges that exist.

I want to get your reaction, whether anything has been done in that direction, whether this committee could make suggestions, outside of even the law suggestion, that it is imperative because of the apparent increase in illegitimacy of children and the need for good homes and a lot of people want children who can't have them, that the agencies, the church and the agencies of the State get into action so that these racketeers can't get into action. I would like to get your idea on that.

Mr. MITLER. That is the root of the problem, Senator Wiley. You have discussed the very core and heart of the whole matter.

This legislation will hit at the chronic offenders. I think also the hearing on the law will tend to highlight the problem so people are alert to what it really is. But the trouble to spot is the gap in services to the natural parents who are unable to get them, or do not know of their existence.

Concretely, you take many of the unmarried mothers who will go to Miami, Fla. They will go down there because it is a haven. They feel it is a place where they can find shelter.

Well, the first thing they need is some financial assistance. The first thing they are up against is the residence requirements of the Florida law. I am not criticizing. They are just there. They have to be a resident of the State of Florida for 1 year before they get any public assistance.

Well, you don't have to be a resident of Miami 5 minutes before you get assistance from a black market baby operator, so that is the first attraction.

The State laws about granting financial assistance to unmarried mothers, with their rigid eligibility requirements, present a wall which the unmarried mothers are unable to buck and are a terrific inducement for these girls to enter into the dangerous field of independent placements. I have given perhaps some of the reasons that discourage these mothers from going to agencies. They are not able, in many instances, to get the necessary financial help either privately or publicly.

Now, financial help is not the only problem, we have pointed this out all over the country, and our hearings have been focused a great deal on this need for this kind of service.

Another tremendous problem is, in some communities, if a girl wants to have her child placed out from an adoption agency she has to go to 5 or 6 different agency groups to get service. She is practically on a Cook's tour of the town. She would have to be a graduate student in social welfare to follow this through. It is a complicated pattern.

What is required is a unity of services. She is disturbed when she comes to the community. One place has the casework, and there is another for shelter, another for adoption, another one for getting financial assistance.

Well, it is a wonder that a great many of the girls do stick to the agency program.

The solution to that, I believe, is as they have done in the Children's Home Society in Washington—one person. The newspapers carry an ad. You ring up the agency, and one person, the person whose voice answers the phone, carries the program all the way through. The girl is able to establish some kind of emotional tie with one human being, instead of being, as I said, on a Cook's tour.

I don't mean that facetiously, but in a wide range of places.

I think our service, perhaps, is in highlighting these problems. We have spoken to these girls, and they have told us that it is a long, complicated labyrinth they have to go through in some instances. The agencies are making every effort now to reduce that and to improve the services in that area.

I think another service we performed is, and that is in Augusta, Ga., and in our Miami hearings we highlighted a critical condition, one in which one of the judges, Judge Harry A. Woodward, had been terminating parental rights. As a judge he had accused these natural mothers of negligence and then he had been terminating parental rights and sending their children all over the country to place them with people who were on his adoption list, and receiving a fee.

The grand jury sat in Augusta, Ga., and there has been a whole revamping of the child welfare there, using the material we developed. Harry Woodward has resigned—and I think that it has a wholesome impact on the local level in that community.

Senator WILEY. I think that statement, that you called it a Cook's tour before they could get relief, probably presents very graphically the situation so that local authorities and State authorities, churches, and others, might well take heed if we are responsible for our fellow folks.

Certainly here is a situation that calls for a solution that will make impossible these racketeering practices and it seems to me that right there is the solution. There ought to be some way that if a woman is pregnant, illegitimately, that that child is the big thing. She ought to be able to go to a public official, then there ought to be some action taken to protect her, at least; the alleged father should be brought into the picture without all the publicity in the world, and particularly do away with the opportunity that these racketeers now have.

I think you have made a very clear statement on that, sir.

Senator LANGER. Call your next witness.



Mr. MITLER. May I state that the next witness—we will defer your testimony for just a minute, Miss Herbert—the next witness will be one of the mothers whose child was placed out by the members of this Chicago group in a situation in which Mr. Willie Manella and Mr. Gale Marcus were involved. The reason for her testifying in this manner, I think is obvious. She has come voluntarily here from Chicago, and we feel that this is the best way to protect her interests.

Now, I am going to call her “Miss Wilson” for the purpose of the testimony. And the committee has on file her name and her identification.

“Miss Wilson,” would you stand up and take the oath, please?

Senator LANGER. Do you solemnly swear that the testimony you are about to give in the pending matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

“Miss WILSON.” I do.

**TESTIMONY OF “MISS WILSON” (AN UNIDENTIFIED WITNESS,  
WHOSE TRUE NAME IS ON FILE WITH THE SUBCOMMITTEE)**

Mr. MITLER. “Miss Wilson,” at the present time, you live in the State of Washington, is that correct?

“Miss WILSON.” Yes.

Mr. MITLER. Would you talk a little louder?

You actually come from Council Bluffs, Iowa?

“Miss WILSON.” Yes, sir.

Mr. MITLER. Thank you. You have come here voluntarily. You wanted to contribute your situation to help in this effort to improve adoption practices, is that correct?

“Miss WILSON.” Yes; that’s correct.

Mr. MITLER. Now, you gave birth to two children, is that correct?

“Miss WILSON.” Yes.

Mr. MITLER. And would you tell us the year in which the first child was born?

“Miss WILSON.” November 1953.

Mr. MITLER. And was that a little boy or a little girl?

“Miss WILSON.” A little boy.

Mr. MITLER. And at that time were you married?

“Miss WILSON.” Yes.

Mr. MITLER. But am I correct in saying someone other than your husband was the father of that child?

“Miss WILSON.” That’s correct.

Mr. MITLER. And that individual presently is in jail on a burglary charge in Iowa?

“Miss WILSON.” Yes.

Mr. MITLER. Now, your second child was born in what year, “Miss Wilson”?

“Miss WILSON.” April 1955.

Mr. MITLER. I see. And the father of that child was someone other than your husband?

“Miss WILSON.” That’s correct.

Mr. MITLER. Now were you living with the 2 children in Council Bluffs, Iowa, at the time you received the call from Chicago from the father of 1 of the children?

"Miss WILSON." Yes.

Mr. MITLER. And you had been in your most intimate association, extended association with this man known as Billy?

"Miss WILSON." Yes.

Mr. MITLER. Now, the call was in August 1955?

"Miss WILSON." That's correct.

Mr. MITLER. Would you tell us briefly what he said over the telephone to you with respect to the placement for adoption of your two children who were with you in Council Bluffs, Iowa?

Would you go ahead and tell us the phone conversation.

Billy called you from Chicago and what did he say to you?

"Miss WILSON." He asked me, he told me that we couldn't go together unless I adopted the children together, because his life couldn't include the children. He told me that he met this lawyer in Chicago, which is Gale Marcus. He said that he would adopt the children out together; they would be adopted out together, and that he would give us \$600 for expenses.

Mr. MITLER. What did you say, when you heard him say that?

"Miss WILSON." I asked him if he was trying to sell my children.

Mr. MITLER. Well, eventually, based on his promise to go back with you, did you agree to the arrangement?

"Miss WILSON." Yes.

Mr. MITLER. Now, did he come to Council Bluffs, Iowa, pursuant to his arrangement with Mr. Marcus?

"Miss WILSON." Yes, he did.

Mr. MITLER. And were the children taken to a hotel in Omaha?

"Miss WILSON." Yes.

Mr. MITLER. Was the next step that he went out to locate your husband because Mr. Marcus wanted your husband for the consent in Chicago?

"Miss WILSON." That's correct.

Mr. MITLER. Now, did you falsely tell your husband where the children were going?

"Miss WILSON." Yes, I did.

Mr. MITLER. Where did you say?

"Miss WILSON." I told him that his uncle in Chicago was going to adopt the children, and that I would be able to see them at any time at my convenience.

Mr. MITLER. In other words, your husband was led to believe that they were going to relatives of Bill's, and that he didn't know that they were going to go outside of the State with Mr. Marcus?

"Miss WILSON." That's correct.

Mr. MITLER. Did Bill say that your husband would get \$100 if he would come to Chicago to sign the consent?

"Miss WILSON." That's correct.

Mr. MITLER. Now, to get to the heart of the situation, what happened to Bill and your husband before you left Council Bluffs?

"Miss WILSON." They were picked up on a burglary charge.

Mr. MITLER. They were more or less together, is that right?

"Miss WILSON." Yes, sir.

Mr. MITLER. So that you telephoned Marcus, and you went to Chicago on your own.

"Miss WILSON." Yes.



MR. MITLER. You checked into a hotel in Chicago?

"MISS WILSON." Yes.

MR. MITLER. And in the meantime, the two men remained in jail in Council Bluffs?

"MISS WILSON." Yes.

MR. MITLER. Now, did a man come and knock on your door at your hotel?

"MISS WILSON." Yes.

MR. MITLER. You have seen a picture of the man, and will you tell us what his name is?

"MISS WILSON." William Manella.

MR. MITLER. That is the man. You were sitting in the audience before. Is that the man whose picture was presented here today?

"MISS WILSON." Yes.

MR. MITLER. What did he say to you when he came there?

"MISS WILSON." He asked me if there was anything I needed and that Mr. Marcus would be up to see me later, and Mr. Marcus would help Bill; he could go to Council Bluffs and help Bill, because Bill had kept his promise not to get in any trouble while he was in Council Bluffs.

MR. MITLER. The next thing that happened, did Mr. Marcus go to Council Bluffs?

"MISS WILSON." Yes, sir; he did.

MR. MITLER. And in the meantime, did you go to work for Mr. Marcus?

"MISS WILSON." Yes, sir; I worked as his wife's maid.

MR. MITLER. Now, did you see Manella while you were in Chicago on other occasions?

"MISS WILSON." Yes; in Mr. Marcus' office.

MR. MITLER. Did he have anything to do with carrying or taking the children to a doctor or to a home?

"MISS WILSON." Yes, sir; he took the children and I to a hotel, to a lady hotel in the suburbs of Chicago with the understanding that I would be able to see the children until they were adopted out. He didn't tell me I couldn't see them any more.

MR. MITLER. After you took them to that home, were you able to see the children any more?

"MISS WILSON." No, sir.

MR. MITLER. Who told you you couldn't see them any more?

"MISS WILSON." Mr. Marcus said he thought it was best, that it would be harder for me if I seen them any more. It would be harder for me to give them up.

MR. MITLER. Now, did there come an occasion where William Manella made a suggestion to you about the child?

"MISS WILSON." He asked me one time why Billy and I didn't have another child so he and his wife could adopt it.

MR. MITLER. What did you say in reply to that?

"MISS WILSON." I said I didn't have babies just for people to adopt them.

MR. MITLER. Was there another occasion when Marcus and Willie were together and spoke to you on the same general subject?

"MISS WILSON." Yes, sir. Mr. Marcus and Willie both asked me if I knew of any other girls that wanted to adopt children out?

MR. MITLER. From where?

"Miss WILSON." That weren't under care.

Mr. MITLER. Did he suggest to you where you should look, what community?

"Miss WILSON." He asked me if I knew any girls back home in Council Bluffs.

Mr. MITLER. Now, in the meantime, you were working in Mr. Marcus' house, and the children had been placed, at least you weren't seeing them, and you were supposed to sign some consent papers for the adoption; is that right?

"Miss WILSON." That's right.

Mr. MITLER. Did you ever sign any papers?

"Miss WILSON." Yes, sir.

Mr. MITLER. And did you go before the Illinois Department of Public Welfare pursuant to the laws of Illinois, or did you go to a private person?

"Miss WILSON." No; I didn't go before any board. I signed the papers before a notary public.

Mr. MITLER. In other words, the consent was taken before an individual, and what did Mr. Marcus say about this individual?

"Miss WILSON." Nothing.

Mr. MITLER. Did he identify him in any way?

"Miss WILSON." No, sir. In front of the manager, the notary public, the man who was the notary public.

Would you state that question again?

Mr. MITLER. I will withdraw that, and go on to the next question.

Did you object to Mr. Marcus telling you that the children were going to be split?

"Miss WILSON." No, sir; I wanted them to go together.

Mr. MITLER. What did he finally tell you?

"Miss WILSON." He told me after the papers were signed that the children most likely would go together because one family couldn't take two children at once.

Mr. MITLER. Did he tell you how you were going to transfer the children to the adoptive parents?

"Miss WILSON." At first he told me I would be able to meet the people, and after I signed the papers he told me that I would mostly hand them through a door, that I wouldn't get to meet the people.

Mr. MITLER. Through a door, did you say?

"Miss WILSON." Yes, sir.

Mr. MITLER. Did he say why you would have to hand your children through a door?

"Miss WILSON." So that I wouldn't—so the parents of the child wouldn't see me, and that I wouldn't see them.

Mr. MITLER. Did he tell you, did he tell you why? Did he tell you anything about his wanting to avoid the criminal statute, the criminal sanctions of the State of Illinois?

"Miss WILSON." No, sir.

Mr. MITLER. In any event, he bailed out Billy, and Billy came to Chicago, and then you left; is that correct?

"Miss WILSON." That's correct.

Mr. MITLER. And when you left Mr. Marcus' house, did you take anything with you?

"Miss WILSON." Yes, sir; I took \$27 with me, and some cents.

Mr. MITLER. Why did you take the \$27?

"MISS WILSON." Because I didn't have any money, and I didn't have any way to get to Chicago. Mr. Marcus lives in the suburbs. I didn't have anyway to leave there, other than taking the money, so I took it.

Mr. MITLER. Now, Mr. Marcus made the statement in Council Bluffs, Iowa, that you had stolen his wife's diamond ring. Is that true or false?

"MISS WILSON." That is false.

Mr. MITLER. In any event, you and Billy came to the District of Columbia; is that correct?

"MISS WILSON." That's correct.

Mr. MITLER. And where did you go after that?

"MISS WILSON." We traveled to different States.

Mr. MITLER. Eventually a bondsman found you where?

"MISS WILSON." In Birmingham, Ala.

Mr. MITLER. And subsequently you went to the State of Washington to live; is that correct?

"MISS WILSON." That's correct.

Mr. MITLER. Now, what is your attitude with respect to the children at this time? What is your feeling about the adoption?

"MISS WILSON." I only have one thing to say, that if I had it to do over, I would like to have my children back. I would like to have a chance to prove myself that I could be a good mother.

Mr. MITLER. Now, is it true that as you said that Billy is in jail, he has a criminal record?

"MISS WILSON." Yes, sir.

Mr. MITLER. And his mother has been ill for quite a bit during her life?

"MISS WILSON." Yes.

Mr. MITLER. Do you feel that if you had been able to have the opportunity of agency service, and sound and good counsel that this problem could have been worked out some other way?

"MISS WILSON." I think that I would never have given my children up, that I would have went to legal advice; I am sure that they could have told me the right way to go.

Mr. MITLER. By the way, did Mr. Marcus tell you that at least 1 of the 2 children was going out of the State of Illinois?

"MISS WILSON." Yes, he did.

Mr. MITLER. I have no other questions at this time, sir.

Senator LANGER. Senator Wiley?

Senator WILEY. I notice from the memorandum in front of me that something is said to the effect that Marcus said he was prepared to give \$600 for the children. Did he give \$600?

"MISS WILSON." No, sir.

Senator WILEY. Where was that remark made? Do you know?

"MISS WILSON." In his office.

Senator WILEY. To whom?

"MISS WILSON." Well, at that time first it was made to Bill. Bill told me over the telephone, and then when I got to Chicago, Mr. Marcus took me out the first night I was there, and he made the remark—

Mr. MITLER. Would you repeat that last statement you made?

"Miss WILSON." The first night I was there, Mr. Marcus took me to a nightclub, and he made the remark to me in the nightclub, did I understand the arrangement that he had made with Bill.

Senator WILEY. What did you say that arrangement was?

Mr. MITLER. Can you keep your voice up just a bit?

"Miss WILSON." That \$600 was to be given to us for expenses.

Mr. MITLER. \$600 was to be given to her for expenses.

Senator WILEY. Did you get it?

"Miss WILSON." No, sir.

Senator WILEY. How much did you get?

"Miss WILSON." He paid my train fare up to Chicago. He paid my hotel bill. While I had the children in the hotel, and while I was there. And he said that he paid some money in Council Bluffs for bills. I don't really know whether he did. And then when I went with his wife he gave me \$15 a week as his maid. That is all I received.

Senator WILEY. Was any remark made by him to you as to whether he had gotten, whether he was in the baby business, whether he had gotten it from anyone else, babies from anyone else, or other sources?

"Miss WILSON." Yes, sir; I believe he made the remark in his office and he said that, yes, he handled adoptions before.

Mr. MITLER. Did he say where he got the children from?

"Miss WILSON." No, sir.

Senator WILEY. Then, as a matter of fact, you got some, did you say \$29?

"Miss WILSON." \$27 and some cents.

Senator WILEY. Did you ask him why you didn't get the rest?

"Miss WILSON." Would you repeat the question?

Senator WILEY. Did you ask him why there wasn't forthcoming the balance between the \$27 and the \$600?

"Miss WILSON." No, sir; I didn't. I just left. I didn't even tell his wife and him that I was leaving.

Mr. MITLER. Senator Wiley, she helped herself to that money. She stole that.

Senator WILEY. Was there anything said to you about engaging in getting more babies for him?

"Miss WILSON." Only that Willie asked me if I would have a child, why didn't Bill and I have a child so he and his wife could adopt him, or did I know of any other girls back home who wanted to give up their babies.

Senator WILEY. I think that is all.

Mr. MITLER. Thank you very much.

Senator LANGER. Call your next witness.

Mr. MITLER. The next witness is testifying under an assumed name. The subcommittee has on file her identification. She is using the name of "Miss Herbert."

I want to state that she will mention the names of certain individuals and these individuals have either been subpoenaed or been notified by the committee.

Will you stand up, "Miss Herbert," and take the oath?

Senator LANGER. Do you solemnly swear that the testimony you are about to give in the pending matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Miss HERBERT." I do.



TESTIMONY OF "MISS HERBERT" (AN UNIDENTIFIED WITNESS,  
WHOSE TRUE NAME IS ON FILE WITH THE SUBCOMMITTEE)

Mr. MITLER. You are using the name, for the purpose of the testimony, of—what is the first name you are using?

"Miss HERBERT." "Louise Herbert."

Mr. MITLER. Be sure to speak into the mike, and good and loud.

And you are a resident of Chicago, Ill., is that correct?

"Miss HERBERT." A suburb of Chicago.

Senator LANGER. I don't want the lady photographed, or the television used on this lady, even though she is using an assumed name—unless you want to be?

You will take note of that, will you, gentlemen.

Mr. MITLER. You are a newspaper reporter by profession?

"Miss HERBERT." That's correct.

Mr. MITLER. You worked on this project on behalf of the Chicago American newspapers?

"Miss HERBERT." Yes, I did.

Mr. MITLER. There was some collaboration with this subcommittee, is that correct?

"Miss HERBERT." That's correct.

Mr. MITLER. In order to determine the facts in the interstate adoption picture, did you assume the role of a New York woman who had come to Chicago to adopt a child?

"Miss HERBERT." Yes, I did.

Mr. MITLER. And you visited a series of doctors and lawyers in Chicago?

"Miss HERBERT." I visited doctors and lawyers in the State welfare department.

Senator LANGER. You have no objection to having television?

Mr. MITLER. I think her position is neutral.

Senator LANGER. If your position is neutral, if you have no objection—

Mr. MITLER. I think her position is a neutral one on that.

Senator LANGER. Let's ask her definitely.

Have you objection to television, or have you not?

"Miss HERBERT." I would prefer if it were not done.

Senator LANGER. You gentlemen take note of that. She prefers not to have television.

Mr. MITLER. Assuming that role, and for the purpose of determining the facts, and for that reason alone, did you go to the law office at 1 North La Salle Street on May 1, 1955, at 4 p. m., of Emanuel Gordon?

"Miss HERBERT." Yes, I did.

Mr. MITLER. Will you tell us step by step what happened on that visit when you assumed the name of "Mrs. David Herbert"?

"Miss HERBERT." I entered Mr. Gordon's office on the date you mentioned, May 1, and I identified myself as "Mrs. David Herbert" of New York, and an adoptive parent. I stated that my husband worked for an advertising agency and made \$25,000 a year; that I had been referred to Mr. Gordon by a family in Brooklyn.

Gordon told me that a legal adoption cannot be arranged without anyone in New York. However, he went on to say that he believed he could help me.

He explained that there was difficulty arranging an adoption between Chicago and New York, because the five counties and New York City refused to cooperate with the State welfare board in Illinois.

Gordon explained to me, "I represent several doctors and nightclubs. These people notify me when babies are available."

He added, "Other lawyers come to me."

Gordon asked me if I knew about the black-market baby business.

At this I looked quite horrified and told him that I did not want any publicity.

Gordon told me, "You misunderstand me. Of course, there would not be any publicity. "He stated that there was a rather high cost to obtaining a baby these days. He mentioned that since the Kefauver investigation these mothers are so brazen they think nothing of demanding more money. Mr. Gordon said that the mothers were asking between \$700 and \$800. He disclosed that he took care of the mothers during the prenatal period, from the fifth month of pregnancy.

He told me that adoptions were not his specialty, that only occasionally did he handle them for friends or people who heard of him by word of mouth.

However, when I asked him if he could assure me something about the baby's background, Mr. Gordon told me that he had a fine staff of private detectives who checked into the mother's family, and that he could assure me about a child's background.

I asked Mr. Gordon what the cost would be. He told me that it would be \$2,500.

Later, during the interview, I told Mr. Gordon that perhaps I should have disclosed in the beginning that my husband was dishonorably discharged from the service. I told Mr. Gordon that the incident happened in 1950 or 1951 at Fort Campbell, Ky., where my husband was a member of the airborne, and kicked another boy out of an airplane.

Gordon said that because of the dishonorable discharge, his statement was, "This makes it a little tricky. I hate to promise you a baby now and find I can't get one for you later because of the record."

Then he apologized. He said, "I didn't mean that it was bad; that is what it is. It is a record and we will have to call it that."

At this point I looked quite discouraged, and downtrodden, and admitted that this was a difficulty we had run into in New York, that because of this dishonorable discharge, we couldn't get a child.

Gordon replied, "Don't worry. I am almost certain this can be handled. I will arrange to have the welfare investigator minimize the incident. It is really nothing."

He then asked me a little later now, "\$3,000 isn't too much to pay for a fine baby, is it?" And at this point I told him I understood that the price would be \$2,500, and his reply was that it ranged between \$2,500 and \$3,000 and he explained that with the dishonorable discharge it would be a little more tricky.

During the interview I had with Mr. Gordon, he asked me if I thought I could lie a little when I went to court.

When he first asked me the questions, I gave him my blank look, and he went into detail. He explained that it would just be a few little lies, to help obtain the baby.

Gordon explained, "I might ask you to tell the judge that the mother was a friend of yours, or that you met her and then came to me. It is best if it is not known you came to me first. It is a little matter concerning my reputation. I have to be careful."

And Mr. Gordon told me that he was a member of the adoption committee of the bar association, which he said helped.

Mr. MITLER. That turned out to be not true?

"Miss HERBERT." That's right. Later that was denied by the bar association.

He indicated that a few other lies might be needed. How long I had lived in the State, and about my husband's record.

A rough breakdown of the money was told me: \$500, his fee; \$800 for the mother; and the remainder would be court costs and medical care, plus the detectives. He said he could assure me the cost would be no higher than \$3,000 and if the detective costs and the medical costs did run it higher, he would make it up out of his own pocket.

When I left Mr. Gordon, he stated that it would be best only to discuss this with my husband, and he asked me not to even mention it to the family in Brooklyn, or to the people I was staying with in Chicago.

Mr. MITLER. Now, after you visited Mr. Gordon, did you pay a visit to Abraham Rabichow, at 1046 West Wilson Avenue, of Chicago?

"Miss HERBERT." Yes, I did.

Mr. MITLER. Was that on May 3, 1955, at 11 a. m.?

"Miss HERBERT." Yes, it was.

Mr. MITLER. In this instance, bearing in mind the large number of witnesses, would you summarize, because we already have the pattern, the highlights, just the bare highlights of your interview?

"Miss HERBERT." Yes, I shall.

Mr. MITLER. If you would go ahead, just the bare highlights.

"Miss HERBERT." Mr. Rabichow is an attorney who told me he was instrumental in many adoption cases. He has pictures which he produced showing babies that he has been instrumental in the adoption for people in other States. He spoke of California, Iowa, and New York, and showed me pictures of these babies.

His price for handling the adoption was \$1,700. He told me that \$250 of that was his fee, and \$1,000 would go to the natural mother, and the rest was court costs.

He stated, however, that he could only give me a receipt for \$600 or \$700 at the most, and that I should not tell anyone about the \$1,000 which I would give him in cash on the side.

Mr. MITLER. Does that represent the highlights?

"Miss HERBERT." There was. Rabichow did go into detail on how easy it was to go to arrange adoption with the State of California. And I also told him that my husband was dishonorably discharged, and it seemed it didn't make any difference, and Mr. Rabichow told me he was breaking the law, but he believed the law was unfair.

Mr. MITLER. After visiting Rabichow, you visited other doctors and attorneys; but, to summarize it, was the pattern substantially the same?

"Miss HERBERT." Yes, it was. I visited a doctor who told me that in cases on outside adoptions like this he raised his fee. The lawyers did the same thing. Everyone around raised it a little bit.



Mr. MITLER. By "outside adoptions," you mean adoptions in which the child went outside of the State to another State?

"Miss HERBERT." No. By "outside adoptions," I mean adoptions that were not handled by agencies.

Mr. MITLER. Did you get the picture that New York was a difficult place at the present time to place a child in this manner?

"Miss HERBERT." Extremely difficult.

Mr. MITTLER. Now, after making these visits, and as the result of a suggestion, did you go to the Illinois Department of Public Welfare?

"Miss HERBERT." Yes. First I saw an attorney, Michael Girard.

Mr. MITLER. As a result of that, did you—

"Miss HERBERT." He was the one who told me this was in Illinois you could do it, but if it was in New York—

Mr. MITLER. You went over there and [delete the name], this testimony, on this point is not meant in any spirit of criticism, because of the Illinois Department of Public Welfare, because what will involve you is of a constructive nature, and do not state the name of the person whom you spoke to, but I think it has value to the subcommittee's hearing.

Would you tell us what the lady said to you at the Illinois department?

"Miss HERBERT." I talked to a worker at the Illinois department on May 2. I presented myself again as an adoptive parent playing the same role. She commented if my husband and I did adopt a baby through a doctor or lawyer rather than an Illinois agency, that we should be aware of the difficulties that could arise from this type of adoption.

She pointed out that there were cases where the parents and the child they had adopted were not suited, where mentally retarded youngsters were given to parents.

The worker stated, These things we know, but there is little we can do. If we could only convince the public that it is better to go through an agency with trained social workers than obtain a baby from a lawyer—she pointed out that she had a very difficult job to do because of the black-market racket. She stated the New York and Illinois laws are the same, but they are more strictly enforced in New York. Our laws are both weak and not enforced.

Mr. MITLER. Well now, I don't mean to cut you off, but did she suggest to you that, did she point out to you the difficulty of enforcing laws in Illinois?

"Miss HERBERT." Yes, she did. She made one other statement on the lawyer. She said some people pay \$2,000 or \$3,000 to the lawyers. All they do is 15 minutes work. The court costs are minor. Many times the mothers get nothing. They want to make money, and they are selling babies to do it.

Mr. MITLER. Go ahead. Would you complete any other things that are of significance in that interview?

"Miss HERBERT." I believe that touches upon the highlights of it.

She mentioned the extreme difficulty that they have of enforcing the law in Illinois, and in interstate adoptions, where the child can be obtained in Illinois, and the adoption can be completed in another State, that there isn't any general basis between the States.



Mr. MITLER. Are there any other points that you want to touch on that emanated from your investigation?

"Miss HERBERT." No, the pattern was the same throughout of all the people that I saw. There was not one who was not interested in obtaining a child for me.

Mr. MITLER. One point that is hard to get now. What was the flavor of your conversation? Were these people speaking to you with a great deal of dignity and recognition of the delicacy of the subject matter, or were the remarks—take for example, Mr. Gordon.

"Miss HERBERT." Mr. Gordon was very pleasant. Some of those attorneys that I talked to were very crude.

Mr. MITLER. I have no further questions.

I recognize there is a great deal more to the material, but I think you have touched on the highlights, and I am going to ask to submit for the record the entire investigation as a unit, so it will be made part of the record.

Senator LANGER. "Miss Herbert," I suppose you have some opinion about the agencies. Do you think they are doing a good job, or a bad job?

"Miss HERBERT." Senator, I did not visit any agencies, and I have no firsthand information myself.

Senator LANGER. Well, complaints have come to me that some of these agencies in some of these States don't give out children even to men and women of very fine character. That they want to keep 10 or 15 or 20 or 25 on hand so that they can make a good showing, and continue to collect funds.

What is your opinion on that?

"Miss HERBERT." As I mentioned, Senator, I have no firsthand information on that subject.

Senator LANGER. Have you made an investigation of it?

"Miss HERBERT." No, I haven't.

Senator LANGER. What would you say if I named a State agency to you, that in the very town where it was located there were seven very fine families that wanted to adopt children and were refused.

"Miss HERBERT." When I talked to the worker at the State welfare department, she mentioned that agencies at the present time could be particular about who they gave children to. I had mentioned to her that I was unable to obtain a child in New York because my husband and I practiced different religious faiths.

She pointed out, however, and this is her statement, that it was because of the black-market racket that the agencies could be fussy who they gave the children to, because they had so many people who wanted children, and took few children.

It was her comment that if the black-market baby business were cut out, there would be more children to the agencies, and the agencies in turn would have more children to give to adoptive parents through the correct channels.

Senator LANGER. Then your investigation, did you discover that in this country there are thousands and thousands of men and women who want to adopt children, but who can't get them?

"Miss HERBERT." I have no firsthand information on that. I didn't talk to people who could not get children.

Senator LANGER. Well, for your information I might say that I am chairman of the Committee on Refugees, Expellees, and Escapees,

to bring in 5,000 orphan children from Europe, chiefly from Greece and Italy, Germany and Austria.

Although we only, under the law, can admit 5,000, there are over 40,000 applications filed in the Department of State, Scott McLeod's Department, which certainly shows that there is a terrific demand in this country for children.

"Miss HERBERT." I don't doubt this, Senator. It has certainly been evidenced by all this. These people wouldn't be in business if that were not true.

Senator LANGER. Thank you.

Call your next witness.

Mr. MITLER. "Miss Green." We have your name on file with the subcommittee. Would you favor us by talking as loud as you possibly can into the microphone?

Senator LANGER. Do you solemnly swear that the testimony you are about to give in the pending matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Miss GREEN." I do.

#### TESTIMONY OF "MISS GREEN" (AN UNIDENTIFIED WITNESS WHOSE TRUE NAME IS ON FILE WITH THE SUBCOMMITTEE)

Mr. MITLER. You are a resident of Chicago, Ill.?

"Miss GREEN." Yes, I am.

Mr. MITLER. And you have come here voluntarily; is that correct?

"Miss GREEN." Yes, I did.

Mr. MITLER. And on November 4, 1955, did you give birth to a child in Evanston, Ill.?

"Miss GREEN." Yes, I did.

Mr. MITLER. You were not married at the time?

"Miss GREEN." No, I wasn't.

Mr. MITLER. Did there come a time when you were making a plan with the Chicago agency to place your child out for adoption?

"Miss GREEN." Yes, there was a time.

Mr. MITLER. And it was in the midst of this time that you were making this plan that Willie Manella and Gale Marcus made the contact and placed your child out, is that correct?

"Miss GREEN." That's correct.

Mr. MITLER. In other words, you were going ahead with the agency plan, and they finally got your child, is that a correct statement?

"Miss GREEN." Yes, sir; it is.

Mr. MITLER. Now, to go back to that situation, shortly after you gave birth to the child, did you start to go to the social service department of a hospital, or to a social service agency in Illinois, in Chicago?

"Miss GREEN." Yes, I did.

Mr. MITLER. And what was done at the agency in connection with adoption planning?

"Miss GREEN." While she was taking the history of my family, and the baby and the baby's father, and that is as far as we got.

Mr. MITLER. That happened because shortly thereafter, through a chain of events your cousin and a man named Jerry and Willie, you came to meet Gale Marcus, is that it?

"Miss GREEN." Yes.

Mr. MITLER. Now, it is your cousin Edward Mitchell who has a record that originally met this group?

"Miss GREEN." Pardon?

Mr. MITLER. Was it through your cousin Edward Mitchell that you met Manella and Marcus?

"Miss GREEN." Yes, it was.

Mr. MITLER. Now, was it January 31, 1956?

"Miss GREEN." Yes.

Mr. MITLER. That you learned that Marcus and Willie—I will delete that—Marcus could help you place your child out?

"Miss GREEN." That's true.

Mr. MITLER. Where did you go on that date with your child?

"Miss GREEN." We went to Gale Marcus' office.

Mr. MITLER. And who did you see there?

"Miss GREEN." I seen Gale Marcus.

Mr. MITLER. And did he give you money at that time, or any other time?

"Miss GREEN." Not at that time, but the next day he gave me \$50.

Mr. MITLER. That is the only money you received in the whole course of this placement?

"Miss GREEN." Yes.

Mr. MITLER. That was to cover what?

"Miss GREEN." That was to cover hospital expenses.

Mr. MITLER. Did you subsequently learn that Mr. Marcus received \$3,200 for this placement?

"Miss GREEN." Yes. After that I was told that he received \$3,200.

Mr. MITLER. Did Mr. Marcus pay your hospital bill?

"Miss GREEN." No. My mother had paid it already.

Mr. MITLER. Did he pay your doctor bill?

"Miss GREEN." No.

Mr. MITLER. Did he pay your expenses during the prenatal period?

"Miss GREEN." No, he did not.

Mr. MITLER. So, so far as you are concerned, you just got \$50 to cover your hospital bill?

"Miss GREEN." That's true.

Mr. MITLER. Now, when you were in his office, did you meet a William Manella, whose picture has been shown to you?

"Miss GREEN." It wasn't in his office. I met him at my cousin Edward Mitchell's house.

Mr. MITLER. Did it appear that he knew some of those men?

"Miss GREEN." Yes, it did.

Mr. MITLER. After going to Marcus' office, and I am summarizing this, did Willie Manella take you, to a pediatrician?

"Miss GREEN." Yes, he did.

Mr. MITLER. Then did you go back to the lobby of Marcus' building?

"Miss GREEN." Yes, sir.

Mr. MITLER. Who did you leave the child with?

"Miss GREEN." I left him with——

Mr. MITLER. With Willie?

"Miss GREEN." Yes.

Mr. MITLER. And do you know where he went with your baby?

"Miss GREEN." No, I don't.

Mr. MITLER. But your child was in his arms when you left, when you last saw the child that day?

"Miss GREEN." Yes.

Mr. MITLER. And then when you went home, was there a disturbance, any hysteria over the matter?

"Miss GREEN." Yes, there was.

Mr. MITLER. By the way, did Mr. Marcus tell you where the family lived who was going to receive your child?

"Miss GREEN." Yes, he said they lived on the east coast.

Mr. MITLER. At this point the child had been examined by a physician, and William Manella had taken the child to board it out overnight.

Now, there was a disturbance. Did the police have to come? I am talking about when you got home and said that you might place the child for adoption?

"Miss GREEN." Yes, there was a disturbance.

Mr. MITLER. What happened?

"Miss GREEN." Well, we had to call in the police to quiet my mother down, and they told me the best thing I should do was to go home and go back the next morning.

Mr. MITLER. All right. What was your decision that night, that you wanted to keep the child, or give the child up for adoption?

"Miss GREEN." That night after I had got home, my father thought it was best that I should take her back with me and try to work things out.

Mr. MITLER. Did you go and tell Mr. Marcus in his office that you wanted the child back, the next day?

"Miss GREEN." Yes, I did.

Mr. MITLER. What did he tell you?

"Miss GREEN." He said that everybody would be getting into trouble if I took the baby back.

Mr. MITLER. Was that one of the reasons you continued on with the placement?

"Miss GREEN." Yes, it was.

Mr. MITLER. Then after that, did he take you somewhere?

"Miss GREEN." Yes, he did.

Mr. MITLER. And that is when you signed the consent?

"Miss GREEN." Yes.

Mr. MITLER. And who did he say the man was that took the consent from you?

"Miss GREEN." I thought it was a judge, but later I learned it was just a clerk.

Mr. MITLER. After that, did you go back to Mr. Marcus' office?

"Miss GREEN." Yes, I did.

Mr. MITLER. What happened there?

"Miss GREEN." Well, we went into an adjoining office and Mr. Marcus had said that the adopting parents were in his office, and we had to go into another office.

Mr. MITLER. What was the way the child was transferred?

"Miss GREEN." Through a door.

Mr. MITLER. Would you describe that?

"Miss GREEN." While Mr. Marcus had told me I would have to pass the baby through an open door to the mother, and I wasn't to see the parents at all.



Mr. MITLER. In any event, you signed the consent and, by the way, you didn't go as prescribed by Illinois—I will withdraw that.

At any time did you go to the Illinois Department of Public Welfare to sign a consent?

“Miss GREEN.” Yes, I did.

Mr. MITLER. After the child was placed, did your mother make a complaint to the police?

“Miss GREEN.” Yes, she did.

Mr. MITLER. What was the nature of the complaint?

“Miss GREEN.” She said the baby was kidnapped.

Mr. MITLER. And there was an investigation by the Cook County State's attorney's office into this matter?

“Miss GREEN.” Yes, sir.

Mr. MITLER. Did you learn from the newspapers how much Mr. Marcus said he received in this transaction?

“Miss GREEN.” No, I didn't learn from the newspapers.

Mr. MITLER. Did you learn from our office?

“Miss GREEN.” Yes.

Mr. MITLER. What was that amount?

“Miss GREEN.” Pardon?

Mr. MITLER. In any event, he stated a very small amount. Did you learn that?

“Miss GREEN.” Yes.

Mr. MITLER. Eventually the child was returned to you?

“Miss GREEN.” Yes, it was.

Mr. MITLER. And did you learn that Mr. Marcus went to New York and came back to Chicago with the child?

“Miss GREEN.” Yes.

Mr. MITLER. And right now where is your baby?

“Miss GREEN.” She is at my aunt's house while I am in Washington.

Mr. MITLER. You are living with the child and looking after the child at the present time?

“Miss GREEN.” Yes, I am.

Mr. MITLER. Now, is there anything you wanted to say on your own, “Miss Green”?

“Miss GREEN.” No, I don't believe so.

Mr. MITLER. I know that you are happy to be together with your child at this time. Is that a fair statement?

“Miss GREEN.” I am very happy to be with her.

Mr. MITLER. Was it your feeling that your coming here may be of value to other people and other girls?

“Miss GREEN.” Yes.

Mr. MITLER. I have no other questions.

Senator LANGER. No questions.

Mr. MITLER. Thank you.

Mr. MARCUS.

Mr. MARCUS. I do not wish to be photographed. I think this is a very serious matter, and I don't think that it should be made into a three-ring circus.

Senator LANGER. You do?

Gentlemen, will you please note that.

Mr. MARCUS, do you solemnly swear that the testimony you are about to give in the pending matter shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MARCUS. I do.

TESTIMONY OF GALE MARCUS, ATTORNEY AT LAW, CHICAGO, ILL.;  
ACCOMPANIED BY HIS COUNSEL, MYRON EHRLICH

Mr. EHRLICH. I think I ought to identify myself. My name is Myron Ehrlich. I am a lawyer here in the District of Columbia. I represent Mr. Marcus.

Mr. MITLER. What is your name, sir?

Mr. MARCUS. Gale L. Marcus.

Mr. MITLER. And what is your home address?

Mr. MARCUS. 219 Ravine Drive, Highland Park, Ill.

I am an attorney at law.

Mr. MITLER. Yesterday, were you outside of room 457 in this building?

Mr. MARCUS. I was, pursuant to a subpoena.

Mr. MITLER. Did you advise any of the witnesses in this case to invoke the fifth amendment?

Mr. MARCUS. No, sir; I did not.

Mr. MITLER. Would you repeat to the subcommittee the remark you made to the witnesses brought here with respect to the fifth amendment?

Mr. MARCUS. I don't recall I made any remark with reference to the fifth amendment, and what I did say to a client was pursuant to his request and pursuant to notification sometime ago and the conversation would be privileged.

Mr. MITLER. Well, were you here representing a client yesterday, or on your own behalf in response to a subpoena?

Mr. MARCUS. I was here on my own behalf yesterday.

Mr. MITLER. So, did you feel yesterday you were in a client-attorney relationship with this man whom you gave that advice to?

Mr. MARCUS. There was still attorney-client relationship, yes.

Mr. MITLER. Have you in any way—I withdraw that question.

Have you always told the adoptive parents, whom you have placed children with, to cooperate fully and wholeheartedly with this subcommittee?

Mr. MARCUS. What I have said to my clients in connection with anything, Mr. Mitler, would be privileged on an attorney-client basis. I did not of my own accord call these clients. They called me, to notify me that they were being tormented by Mr. Mitler. I did not advise them until they requested it.

Senator LANGER. Let him answer.

Mr. MITLER. I didn't think that was the answer.

Mr. MARCUS. I did not give any advice until it was requested.

Mr. MITLER. Well now, after they told you how I had tormented them, what advice did you give them after they requested it?

Mr. MARCUS. That was an attorney-client privilege.

Mr. MITLER. You have just breached it by telling us about the call.

Mr. MARCUS. That is not a relation of what conversation took place. I can tell that I received a call. That isn't privileged.

Mr. MITLER. You stated to us that they called you and spoke to you as their attorney and told you as their attorney that I had tormented them.

Mr. MARCUS. That's right.

Mr. MITLER. That was part of their discussion with you as their attorney. So you have started in. Let's—I think you ought to complete it. That is the law.

Mr. MARCUS. I did not have to complete the rest of the conversation. That is attorney-client privilege.

Mr. MITLER. Mr. Chairman, I want to point out that the witness started in with a discussion of saying what the client told him, and I believe the law is that once he starts he has to complete it.

Mr. MARCUS. May I answer that, Mr. Chairman, please?

Senator LANGER. Go ahead.

Mr. MARCUS. There are certain parts of an attorney-client conversation that are intended to remain privileged, and there may be parts of a conversation that was never intended to be privileged.

Now, certainly a client calling and reporting what had occurred or transpired wasn't intended to be a secret.

Senator LANGER. I sustain the objection. I think Mr. Marcus is right.

Mr. MITLER. Mr. Marcus, you recall when this subcommittee was in Chicago in July?

Mr. MARCUS. Pardon, I didn't hear you.

Mr. MITLER. Do you recall when this subcommittee was in Chicago in the month of July?

Mr. MARCUS. I do recall when it was there.

Mr. MITLER. Did you learn that a subpoena was issued for you?

Mr. MARCUS. Not until sometime afterward. I don't mean after it was there. I mean, I think it was sometime after I had left on a vacation.

Mr. MITLER. Where were you at the time of the hearings in Chicago?

Mr. MARCUS. Mr. Mitler, I don't think where I was at that time is pertinent to this investigation. It certainly will not help the subcommittee to determine legislation, or any of the high ideals that it has, that I would like to cooperate with, and I would rather not discuss it.

Senator LANGER. Mr. Marcus, you are directed to answer that question. Where were you at that time?

Will you repeat the question?

Mr. MITLER. Where were you at the time the subcommittee conducted its hearings in Chicago, when a subpoena was issued for you, and the United States marshal was making extended efforts, as well as members of this subcommittee, to locate you? Where were you at that time?

Mr. MARCUS. First, may I ask this question: Am I being impliedly charged with a violation of the Federal statute?

Mr. MITLER. The purpose of this question is to show a pattern of conduct of those engaged in this interstate traffic.

Mr. MARCUS. At that time, and, incidentally, I don't know the specific date the marshal was looking for me, but I will state this: That approximately from the latter part of June, I think along about the 27th or 28th, thereabouts, to, I think, about the 18th or thereabouts of July, I was on a vacation. I was in various places; and I don't think anything else is pertinent to this investigation as to the exact location.

MR. MITLER. Mr. Chairman, I submit that that is not a clear answer, and the witness has not answered the question. I wanted to know physically where he was. That was my question.

Senator LANGER. I think, Mr. Marcus, you ought to tell where you were on vacation, what places.

MR. MARCUS. Senator, where I was had nothing to do with any children. Who I saw had nothing to do with any children, and there are certain people who were in contact with me whose names I do not wish to be brought into this. They are—I can't say too much about it, but I think that it is not pertinent to this committee.

Senator LANGER. I am sorry, Mr. Marcus, but you are directed to answer the question.

MR. MARCUS. Senator, on the basis of the pertinency of the question, I will have to decline to answer in due deference to the Senator, and I would respectfully submit—

Senator LANGER. Make your record for contempt.

MR. MITLER. Mr. Chairman, I now ask you to once again direct the witness to answer the following question:

Where were you in the month of July, on the 15th of July 1955, when the Senate Committee To Investigate Juvenile Delinquency was holding hearings in the Federal courthouse in Cook County, Ill.?

I ask that the chairman direct the witness to answer that question, subject to penalty of contempt, if he declines.

MR. MARCUS. Pardon me, I did not hear you. I was conversing with counsel.

MR. MITLER. I asked the chairman to direct you to answer the question, and that if you failed to answer the question, I ask that it be subject to penalty of contempt.

MR. MARCUS. I understand what you have said, and my answer is still the same, Senator.

In due deference, I must make that answer.

Senator LANGER. Well, I direct you to answer that question, Mr. Marcus.

MR. MARCUS. The answer to the question would not be pertinent, Senator, and I refuse to answer that.

Senator LANGER. Let the record show he refuses to answer it.

MR. MITLER. Were you on a boat? Isn't it a fact you were on a boat in Rhodie's Boat Harbor?

MR. MARCUS. Just a moment, Counsel.

MR. MITLER. Let me ask you, first, sir.

Senator LANGER. You ask the question. Give plenty of time to answer, if he chooses to do so.

MR. MITLER. Isn't it a fact that you were concealing yourself on a boat that was at Rhodie's repair place, right adjacent to Chicago, Ill.?

MR. MARCUS. I have never at any time concealed myself.

MR. MITLER. I asked, Were you on a boat belonging to the State's attorney of Lake County, and did you conceal yourself on his boat during the time the subpoena was out for you by the United States marshal?

MR. MARCUS. I answered you before, counsel, that I have never concealed myself and, as to the rest of your question, I will not answer.

MR. MITLER. Mr. Chairman—

MR. MARCUS. On the basis of its being not pertinent to this investigation.



Mr. MITLER. I ask that the witness——

Seantor LANGER. Ask him if he was on the boat, and leave out the concealment feature.

Mr. MITLER. Were you on a boat belonging to Robert Nelson, State's attorney of Lake County, at the time the subcommittee was holding this hearing, and at the time the United States marshal had a subpoena out for you?

Mr. MARCUS. Counsel and Senator, it is respectfully submitted to you that I will not answer any questions concerning my vacation, because it is not pertinent to the legislative purpose of this committee.

Senator LANGER. This subcommittee decides what is pertinent, and what is not pertinent, and you are directed to answer.

Mr. MARCUS. Senator, I respectfully submit I am not going to answer that question.

Senator LANGER. In other words, you refuse to answer the question?

Mr. MARCUS. I do, Senator.

Senator LANGER. Make your record.

Mr. MITLER. I now direct the witness, I ask the chairman to direct the witness to answer the question, the question being as follows:

Were you, during the month of July, and on July 15, on the boat belonging to the State's attorney of Lake County, Robert Nelson.

Senator LANGER. I understand you decline to answer?

Mr. MARCUS. I decline to answer that.

Mr. MITLER. Mr. Marcus, for the purpose of protecting the identity of the adoptive parents, and the natural parents, I am going to have a card handed to you, we can talk and both understand the names then.

Would you hand this to Mr. Marcus?

Mr. MARCUS. Counsel, may I also have some water?

Mr. MITLER. Certainly.

Do you have a card before you, and we will refer to it as Case No. 3.

Mr. MARCUS. I do.

Mr. MITLER. There is no problem in your mind as to the identity of the name of the girl who testified under the name of "Miss Green," Mr. Marcus?

Mr. MARCUS. Yes; I know who she is.

Mr. MITLER. You also know who the adoptive couple is referred to on this card?

Mr. MARCUS. I do.

Mr. MITLER. Now, I ask you whether in your office in Cook County, Illinois, did you receive a \$500 check from the gentleman here, whose name appears in this card, plus the sum of \$2,700 in cash for the baby born to Miss Green on November 4, 1955?

Mr. MARCUS. Counsel, what I received from my client or what I conferred about with my client, would fall within the privileged communication, and to my knowledge it would be an attorney-client privilege, and to my knowledge it has not been waived.

Mr. MITLER. Mr. Chairman, when the practice of law degrades itself to the level that being a baby broker and selling children comes under the umbrella of the practice of law, I——

Mr. MARCUS. I resent that, counsel.

Senator LANGER. Wait a minute. Don't interrupt him again. Finish your question.

Mr. MITLER. I submit that the relationship between placer and placee, and we have already heard testimony on this subject in executive session yesterday, does not represent an attorney-client relationship; that the other relationship of going into court and receiving an adoption decree does represent a part and parcel of the practice of law.

But being a baby broker, and in this instance, as our testimony in executive session shows, no petition was made to a court, no act that comes anywhere within the practice of law was performed. The sole thing that happened was that a New York couple came here and, pursuant to the testimony, paid the sum of \$3,200 to Mr. Marcus.

I am not saying that is a fact, but I have tried to paint the background, and that relationship of placer and placee is not the relationship of an attorney-client, and because it happens that the person who is doing the placing is an attorney does not give that person the umbrella of the protection of the attorney-client relationship.

Senator LANGER. That is not a question. Will you ask him a question?

Mr. MARCUS. May I answer counsel?

Senator LANGER. Ask him your question.

Mr. MITLER. Did you receive from the prospective adoptive parents on, first, the beginning or end of January of 1956, in your office, in Chicago, Ill., a \$500 check and \$2,700 in cash?

Mr. MARCUS. My answer to that, Counsel, is there is an attorney-client relationship, and there was a privilege there, and to my knowledge it has not been waived.

Now, to continue, you have formed certain conclusions and opinions from certain statements which could not have been done in a court of law, provided I had the power or right to cross-examine the witness.

I think that you are deliberately setting forth to smear an attorney. I hope that in all fairness I will be given the opportunity to state in detail what did transpire and until that time I respectfully request that the chairman please withhold judgment of me.

May I finish, please?

It is my sincere desire to cooperate with this committee. I think I can make some several suggestions that might be beneficial, and I understand the problem.

I have thoroughly read the transcript of the last hearing. I am shocked, also, by some of the things I have read. I am in sincere sympathy with the work of this committee and with the Senator's thinking on it.

But I cannot violate the attorney-client privilege, and I feel that in some instances where you are asking, in my humble opinion, and that of counsel who is advising me, I must not reply.

Senator LANGER. Will you have the question read?

Mr. MITLER. Mr. Stenographer, will you read the question, please? (Question read.)

Mr. MITLER. Mr. Chairman——

Senator LANGER. Just a minute.

Mr. MITLER. May I just say, Mr. Chairman, there has been independent proof of the fact regarding the \$3,200 today. We heard the testimony of the girl who received \$50, and we heard yesterday under oath the testimony of the adoptive parents who gave a \$500 check and \$2,750 in cash.

MR. MARCUS. Correction, counsel. That girl did not state she received \$500.

MR. MITLER. My apologies for that.

MR. MARCUS. \$50.

Senator LANGER. Ask your next question.

MR. MITLER. I show you another card.

In the meantime, while the card is being brought up, did you know Willie Manella?

MR. MARCUS. Yes; I do, counsel.

MR. MITLER. Was he in your office quite frequently?

MR. MARCUS. Yes; he is a client of mine, and is in there quite frequently.

MR. MITLER. Did you arrange or direct for him to solicit unmarried mothers?

MR. MARCUS. Never.

MR. MITLER. Do you know Mr. Willie Manella?

MR. MARCUS. Pardon?

MR. MITLER. Did you know Mr. Willie Manella?

MR. MARCUS. Yes.

MR. MITLER. Did he ever use any other name?

MR. MARCUS. On one occasion that I know about, I think. I am not certain, but I think there was one occasion.

MR. MITLER. What other name did he use, Mr. Marcus?

MR. MARCUS. I believe on one occasion he used the name of Anderson.

MR. MITLER. Why?

MR. MARCUS. Because on that occasion—it requires a little background. May I give a little of the background for this? It is difficult to answer just why without understanding what is behind it.

May I?

MR. MITLER. Sure.

MR. MARCUS. May I, Mr. Chairman?

Senator LANGER. Take all the time you need to answer.

MR. MARCUS. Thank you, Senator.

First, there has been and there is a record here of Mr. William Manella. I have known him as a client and have represented him in civil matters since about 1953.

Mr. Manella is of Italian descent, married, and has one adopted child.

Due to a series of very unfortunate circumstances initially, he started to adopt one child through a doctor, and the child was a spastic child. It had to be returned.

The second child he attempted to adopt had a heart murmur. That had to be returned.

He finally adopted a third child, who is presently with him. That was all done, incidentally, prior to the time I ever met Mr. Manella.

When I met him it was in connection with a civil matter, and I learned shortly thereafter that he and his wife both are extremely anxious to adopt another child.

They are devout Catholic people. They recognize that another child in the family is necessary.

Incidentally, that desire, as it has been with many people, has developed into an obsession, practically. Mr. Manella, because of his difficult experiences previously, has made extreme effort to find for himself

and his wife another child. It has gone even so far where the nuns of his parish are praying each month that that will occur. The neighbors in the neighborhood know about this.

Now, in his extreme desire to obtain a child for himself and his wife, he made contacts wherever he could. He saw some children, and he was concerned with some of the children he saw, who were available for adoption, but would not fit in his own family.

On the particular occasion when he used the name Anderson, at least the one I know about, and am speaking of, the girl, I think, was in Florida. I believe that is the occasion you are referring to, isn't it, counsel?

Mr. MITLER. Did you know her before she went to Florida?

Mr. MARCUS. I never knew the girl. But she had a brother in Chicago, and the family was of Italian extraction. Mr. Manella advised me that this man's sister was about to have an illegitimate child, and she was in Florida, and he wanted her to return to Chicago. He was interested in that child for himself.

Unfortunately——

Mr. MITLER. I tell you, I don't want to curtail you, but excuse me—since you are interested in the subject, I know you want to afford us the opportunity of hearing the witnesses.

Mr. MARCUS. All right.

Unfortunately, the girl had the child prior to the time she was able to return to Chicago, and in calling down there, he did not want her to know his identity, and it is understandable—I think these matters should be confidential—there is a lot of evils that result in it; and he used the name of Anderson.

Does that answer your question?

Mr. MITLER. Certainly.

And tell me, he was interested in adopting the child himself; is that correct?

Mr. MARCUS. That is correct.

Mr. MITLER. Now, when he went down there he was on his own, so to speak?

Mr. MARCUS. Yes, with my advice as to the legal angle.

Mr. MITLER. Did you give him any money before he went down to Florida, Mr. Marcus?

Mr. MARCUS. I don't think I gave him any prior to the time he went to Florida but I think while he was there——

Mr. MITLER. Just in respect to this Florida trip?

Mr. MARCUS. Not that I recall.

Mr. MITLER. I see. So——

Mr. MARCUS. Not prior.

Mr. MITLER. So that if he had any disbursements there, they would have been disbursements for his own benefit, for his own purpose, is that a fair statement, since he was interested in adopting the child and he went to Florida to get the child for himself?

Mr. MARCUS. I believe so.

Mr. MITLER. By the way, when he made this contact in Florida, did he make it from the telephone in your office?

Mr. MARCUS. Yes, he asked me to listen to some of the details.

Mr. MITLER. Now, before he went to Florida, did you know about his background?



Mr. MARCUS. I did not know all of the details of his background. I knew that he had been connected in the labor movement but I also knew this, Counsel, that—

Mr. MITLER. I am not talking about the labor.

Senator LANGER. Wait a minute, let him finish.

Mr. MARCUS. I also knew this that there are erasers on pencils and there are parole boards and so forth. I know that he is engaged in a lawful business. I know that as a result of his having obtained a child that he is extremely devoted to, the man has been trying to go on the straight and narrow path.

Now, I did not have full knowledge of his record until I saw it in the newspapers, frankly.

Mr. MITLER. Well, I ask again, when he went to Florida, did whatever money he spent was his own money so far as you know?

Mr. MARCUS. As far as I can recall, Counselor.

Mr. MITLER. It is a simple matter. So far as you know, he went to Florida and spent his own money.

Mr. MARCUS. As far as I can recall. It is possible I have on occasion loaned him, Mr. Manella, money. He has repaid it. I don't recall, frankly.

Mr. MITLER. You have left all possibilities open. Could you firm it down just a little bit?

Mr. MARCUS. I am giving it to you to the best of my recollection.

Mr. MITLER. Did you loan him some money?

Mr. MARCUS. I can't answer that definitely, Counsel. To the best of my recollection I think when he left he left with his own funds. I know that he ran short when he was in Florida.

Mr. MITLER. Now, I show you a photostat of a check and ask you whether you deposited this check to your account and the check is made out to cash, \$215 and I will leave the name out of it.

Mr. MARCUS. I know the check you are referring to.

Mr. MITLER. Forgive me for finishing, thank you, Mr. Marcus.

Mr. MARCUS. I am sorry.

Mr. MITLER. On the back it is endorsed, "I accept this as full payment of any account owed me"—I will leave the lady's name out—signed "William Anderson" and endorsed and put in your account in the Evanston Trust and Savings Bank. Is that correct?

Mr. MARCUS. That is correct.

Now, may I explain that?

Mr. MITLER. May I finish just one thing? This check is made out to cash. I will show it to you.

Mr. MARCUS. I recall it.

Mr. MITLER. All right, let me finish this point. You say he used the name "Anderson" for one purpose and one purpose alone because in connection with this adoption matter he didn't want them to know his true name. Now he is going over to the bank. Can you tell me any reason why he should use the name "Anderson" on the back of this check if he was known, if his name was William Manella, known to you as William Manella, and this is something that transpired in Chicago?

I show this and ask that it be marked "Subcommittee Exhibit 11."

Senator LANGER. That will be exhibit No. 11.

EXHIBIT No. 11

63 556  
- 631

CITIZENS NATIONAL BANK

OF ORLANDO

ORLANDO FLORIDA Feb 7 1957

PAY TO THE  
ORDER OF

\$ 215.00

DOLLARS

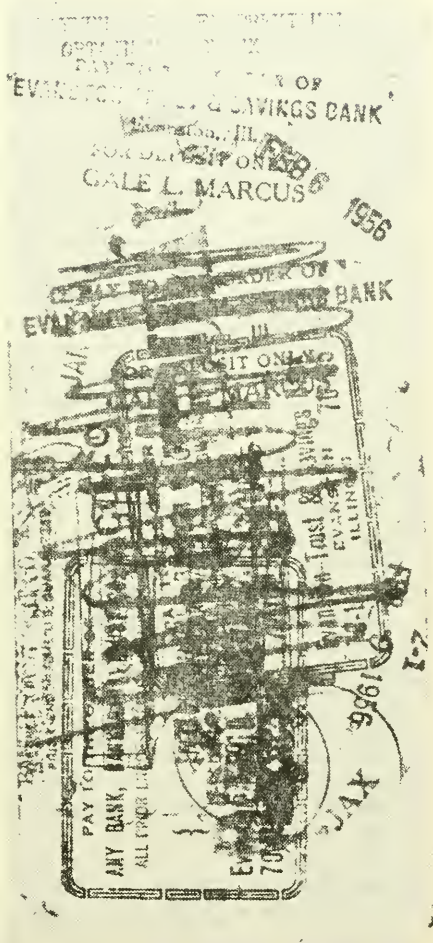
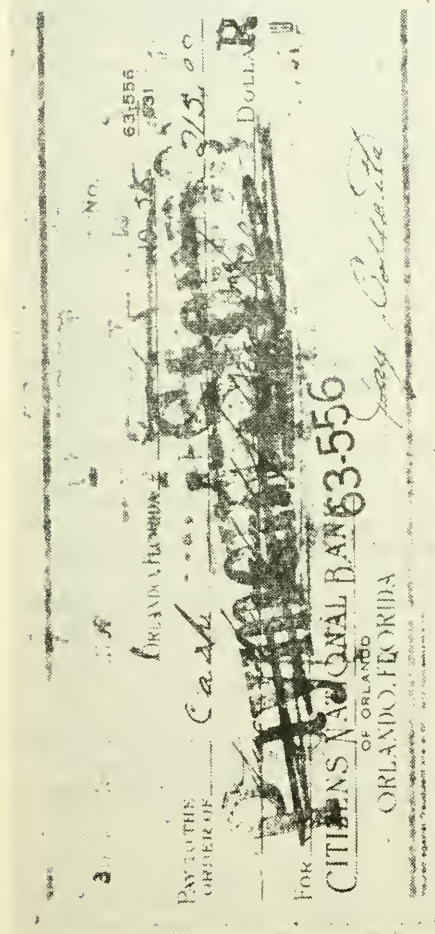
*Two hundred fifteen and 00/100*  
*For paid in full for the*  
*payment of the balance of the*  
*customer check of Jan. 1957*  
*Jay Collette*

*I accept this as full  
payment of any accounts  
owed me by Jay Collette.*  
*William Anderson*

PAY TO THE ORDER OF  
EVANSTON TRUST & SAVINGS BANK  
EVANSTON, ILL.  
FOR DEPOSIT ONLY  
MARCUS

PAY TO THE ORDER OF EVANSTON TRUST & SAVINGS BANK EVANSTON, ILL.	FEB 11 1957
70-115	70-115

EXHIBIT No. 11



Mr. MARCUS. I know the check and it is not necessary to bring it to me.

Mr. MITLER. I thought it might be helpful.

Mr. MARCUS. No, I remember the transaction perfectly.

Mr. MITLER. Could you tell us why the name "Anderson" is on there?

Mr. MARCUS. Yes, because that was the check that was being reimbursed to him for the advancement that he made of hospital expenses for this girl in Florida. Had he signed his correct name and his own name, his identity would have been revealed to her and he did not wish to be identified to her.

Mr. MITLER. Well, at this particular point did he have the child or not have the child?

Mr. MARCUS. He did not have the child.

Mr. MITLER. So the matter was closed?

Mr. MARCUS. That is right.

Mr. MITLER. What difference did it make?

Mr. MARCUS. That was his personal desire. I saw no objection to it.

Mr. MITLER. Now, your position is that Mr. Manella was simply in your office trying to get a child for himself?

Mr. MARCUS. Yes.

Oh, no, just a moment, I represented him also in other matters.

Mr. MITLER. Now, in his anxiety to get a child for himself, did he come in contact with the witness who just testified, we called "Miss Green?"

Mr. MARCUS. He did not come in contact with her as she has testified.

Mr. MITLER. In any event did he come in contact with her one way or another?

Mr. MARCUS. Not in any way connected in any manner with this.

Mr. MITLER. Did he ever come in contact with her?

Mr. MARCUS. Only to act as a chauffeur to drive her and, I think, her cousin to the pediatrician. That was at my request because he happened to be there and it was convenient to ask him.

Mr. MITLER. This, when Mr. Manella was a client of yours?

Mr. MARCUS. That is right.

Mr. MITLER. You told us about even a religious group that was praying for that, the placement of that child with Mr. Manella?

Mr. MARCUS. Because he was not interested in that child.

Mr. MITLER. I see.

Mr. MARCUS. Incidentally, Counsel—

Mr. MITLER. Why?

Mr. MARCUS. Because having met the mother, he felt that the child would not match his present child No. 1; No. 2, his present child is extremely precocious and he feels that he must get a child who will match that one in intelligence. I am highly in accord with this theory.

Mr. MITLER. Let me ask you this, Mr. Marcus: the reason why you have the people hand the child through the door to the adoptive parent is you feel she should not meet face to face, that is one of the reasons?

Mr. MARCUS. That is one of them; yes.

Mr. MITLER. Now, Mr. Manella as a prospective parent, why did you think it wise and sound to let him meet this Miss Green first?



Mr. MARCUS. No, because he wouldn't have it any other way. He wanted to know what the natural mother looked like. That is his privilege, too. The main reason that I do it, so that they cannot see each other, is to avoid any future trouble in the way of blackmail, or the recognition by the natural mother of the adopting parents, or by any possible way for them to meet in later life. There are cases, as you know, Counsel, where there have been some very unhappy incidents as a result of a natural mother recognizing the adopting mother.

Mr. MITLER. Now—

Mr. MARCUS. That is the risk a client can take if they want to.

Mr. MITLER. I show you these checks and ask you, I think you have the card there, that case No. 5, did you receive these checks from a gentleman mentioned in case No. 5 which total \$1,950 for the placement of a child with a New York couple, on October 24, 1955?

Mr. MARCUS. Counsel, my answer to that question would be the same as the one previously sustained by the Chairman. It was a privileged communication, attorney-client.

Mr. MITLER. On this point, Mr. Chairman, I would like to point out there has been independent testimony on this point but I believe that the witness' contention it is an attorney-client relationship is not a valid one. It think that perhaps it is an important principle because in this case the relationship was of placer and placee and I ask that the witness be directed to answer whether he received these checks.

Mr. MARCUS. Mr. Chairman, may I—before you?

Senator LANGER. Surely.

Mr. MARCUS. Under our statute and incidentally I do humbly suggest, I do not, in my opinion, believe that I am a placer. I am a counselor. I advise people and under our statute, if a mother directly hands a child to an adopting parent, I am not placing. She is. She is only acting upon advice of counsel.

Mr. MITLER. Mr. Marcus, you are the person who knows the adoptive person before the natural mother. Is that a fair statement?

Mr. MARCUS. Yes, it is a fair statement.

Mr. MITLER. Is it a fair statement to say that you use your judgment to evaluate the suitability of the adoptive parent?

Mr. MARCUS. I do to a great extent. I also, incidentally, Counsel, and I think you will bear me out in this, you have been personally to some of the homes of these adopting people and I am sure you have found them to be very suitable people to be proud of.

Mr. MITLER. I want to correct you. I have not been to anybody's home.

Mr. MARCUS. I am sorry. I thought you had been. Nevertheless, these people are all referred to me by other adopting parents in almost every case. Most of my adopting parents are in the professional fields. That is lawyers who have adopted for themselves, and accountants, most of the higher type of people and when a couple is recommended to me, I rely a great deal upon the integrity of the people recommending them. I think that if I were at liberty to mention some of the people, some of them are nationally known figures and known to be proper people.

Mr. MITLER. Well, in line with that, on September 19, 1955, did you phone a man whom you did not know in a shoe store in Ansonia, Conn., and ask this man if he wanted a child?

Mr. MARCUS. I don't recall. If you can hand me his name I might be able to answer that and know what the circumstances are.

Mr. MITLER. Surely.

Mr. MARCUS. Counsel, this particular individual had called me, I think, about a year or more ago and was referred to me by another client. Now, when I called him, I already had information about him from another client.

Mr. MITLER. To summarize it, you knew about him beforehand?

Mr. MARCUS. Yes.

Mr. MITLER. In other words, it is in conflict with his statement that he didn't know who in the world you were?

Mr. MARCUS. That is very possible but I do have, I think, in this case—I am not certain—but I think in my office in my miscellaneous file I believe I have a letter from this man's wife advising me who had told her to get in touch with me.

Mr. MITLER. Now, getting back to the case, case No. 3, isn't it a fact that you accepted the \$500 check, told the adoptive parent to only reveal the \$1,500 and kept the \$2,700 in cash to conceal the amount of money paid?

Mr. MARCUS. Again, Counsel, I will have to answer that on the attorney-client privilege.

Mr. MITLER. Isn't it a fact that on October 24 when you accepted the four checks, one of them made to Gale Marcus, one to a doctor, that the other two checks for cash were \$500 and \$375 were arranged in this manner to conceal the amount of money paid in exchange for the child?

Mr. MARCUS. Counsel, I will again have to answer that on the same basis which was sustained before.

Mr. MITLER. When you were questioned about case No.—

Senator LANGER. Will you state, Mr. Marcus, just what your objection was before?

Mr. MARCUS. Attorney-client privilege.

Senator LANGER. Thank you.

Mr. MITLER. You believe in cooperating with authorities, Mr. Marcus?

Mr. MARCUS. I do, implicitly, and I think you have evidence of it.

Mr. MITLER. And especially the law enforcement agency of your own county?

Mr. MARCUS. No question about it.

Mr. MITLER. Were you interviewed in connection with case No. 3 by Joseph McGovern, assistant State's attorney?

Mr. MARCUS. Yes; I was.

Mr. MITLER. Did you tell him that the only amount of money that you—withhold from him and conceal from him the fact that you received approximately \$2,700 in cash from the adoptive parents in that case?

Mr. MARCUS. I frankly don't recall, Counsel.

Mr. MITLER. Could you try to refresh your memory? I will wait until you do.

Mr. MARCUS. Counsel, you are now attempting to ask questions through what we might say is the back door on a waiver of the attorney-client privilege. And, indirectly what you cannot get at directly, and I have cases citing that—

Mr. MITLER. Well, I haven't discovered your answer yet.

Mr. MARCUS. My answer is, I will have to decline to answer on attorney-client privilege because you are attempting to bring out indirectly what you cannot bring out directly in accordance with the rule of law and the ruling of this chairman.

Mr. MITLER. There was a cooperation matter. You certainly would not have told them an untruth?

Mr. MARCUS. Counsel, I do not wish to enter into a debate with you. I have answered the question.

Senator LANGER. Will you state the ground upon which you decline to answer?

Mr. MARCUS. I decline to answer this question because counsel is attempting to bring out facts indirectly which he cannot under the law bring out directly as in violation of an attorney-client relationship and privilege.

Senator LANGER. No relation of attorney and client between you and Mr. McGovern, the State's attorney. Do you wish to object on some other ground?

Mr. MARCUS. Pardon?

Senator LANGER. Do you wish to object on some other ground?

Mr. MARCUS. No, for this reason. While there is no relationship between myself as attorney and Mr. McGovern as a client, I cannot answer indirectly what would be a violation of attorney-client privilege, if asked directly. Possibly, I hope I make myself clear.

Senator LANGER. You don't make yourself clear.

Mr. MARCUS. It involves the same documents which the Chair rules on, has ruled on, and sustained the ruling.

Senator LANGER. No.

Mr. MARCUS. Then maybe I do not understand the question. Is it the same document which the Chair has previously ruled on?

Senator LANGER. He is inquiring about a conversation that you had with Mr. McGovern. No relationship of attorney and client between you and Mr. McGovern but you may object on some other ground if you care to.

Mr. MARCUS. I can also state this: My conversation with Mr. McGovern was supposed to have been in a confidential capacity at the request of Judge Gutknecht and that statement was not to have been repeated to anyone.

Mr. MITLER. Didn't you grant an interview to the newspapers—just a minute, let me finish the question, please—didn't you grant an interview to the newspapers en route from the State's attorney's office? Isn't that a fact?

Mr. MARCUS. Pardon Senator, were you saying something?

Mr. MITLER. Nobody was saying anything then, Mr. Marcus.

Mr. MARCUS. I thought the Senator, I didn't want to interrupt. I don't quite understand what you mean by an interview, counsel.

Mr. MITLER. It is not a complicated word. You talked to people like those seated over there [indicating] the members of the press, you asked or they asked you questions, you gave them answers, that is my interpretation of the word "interview."

Mr. MARCUS. I believe I was questioned.

Mr. MITLER. My question was, didn't you speak to members of the press. Mr. Marcus has raised the point that it was a confidential conversation between he and the State's attorney. I said when he left the State's attorney's office, did he go and talk with the press



about his interviews with the State's attorney, isn't it a fact that the result of that appeared in the Chicago papers?

Mr. MARCUS. Counsel, my answer to you again is you are attempting to bring out indirectly what I cannot answer directly as being in violation of attorney-client privilege.

Mr. MITLER. Well, I submit, Mr. Chairman, that the attorney-client privilege does not exist in this situation and I ask that the witness be directed to answer the question.

Senator LANGER. There is certainly no relationship of attorney and client between you and the State's attorney, or anything you said to the press. But, if you base your objection on some other ground, I might sustain it, if you have some other grounds you want to base it on.

Mr. MARCUS. Senator, I sincerely object to the question and also I know you are a Senator and I don't think an attorney.

Mr. EHRLICH. Yes; and a very able one.

Mr. MARCUS. I stand corrected, Senator; then, I can speak to you in legal language.

We have here a situation, I do object for legal reasons, Senator.

Senator LANGER. For what reasons?

Mr. MARCUS. For the reason that counsel is attempting to bring out indirectly what he cannot bring directly as being a violation of attorney-client privilege.

Senator LANGER. I am sorry, I will have to overrule that objection.

Mr. MARCUS. I am sorry, Senator.

Senator LANGER. If you want to base it on some other ground, I might sustain it. I want to be absolutely fair with you—take all the time you want to confer—there is no hurry.

Mr. MARCUS. Senator, I am sorry to confess between client and I, we can't truthfully find any other ground but I am satisfied if the Senator has any other ground I sincerely object to it and I have several reasons for it.

Senator LANGER. I am sorry to overrule your objection.

Mr. MARCUS. All right, Senator.

Mr. MITLER. Senator Langer, may I point out under the cases the amount of the fee is not a confidential communication by the client and the cases recall that in fact attorney and client are adverse parties in this regard and the question, this, I am citing here from—

Senator LANGER. I am interested only in the fact that there was a conversation between Mr. McGovern, the State's attorney, and the witness.

Mr. MITLER. Surely either he said that to Mr. McGovern or he didn't say it.

Senator LANGER. Now, if he objects on what I conceive to be a proper ground, I will sustain it.

You may proceed.

Mr. MARCUS. I think it was a breach of confidence.

Mr. MITLER. Would you direct the witness since he has not presented legal valid ground to support his position—to answer the question?

Senator LANGER. Will you ask your question again first?

Mr. MITLER. Yes. Will you tell the subcommittee what you said to Mr. McGovern with respect to the amount of money received by you in case No. 3 on the card before you?

Mr. MARCUS. Counsel, what I said in the State's attorney's office was said in confidence between one attorney and another attorney and



that statement based upon the representatives of another reputable attorney and the State's attorney of Cook County, was to be kept in confidence. I do not think that it is fair or proper for that confidence to have been breached and for the second reason that it may be a link in this chain for the objections previously made.

Mr. MITLER. Isn't it a fact, Mr. Marcus, that the Chicago papers carried a story which was presented by the State's attorney's office, the Commonwealth states you received——

Mr. MARCUS. I can't answer that of my own knowledge.

Mr. MITLER. What is the fee that you received in this case, case No. 3?

Mr. MARCUS. The chairman has already ruled on that question, Counsel.

Mr. MITLER. Mr. Chairman, I direct the witness be ordered to testify with respect to the question about his conversation with Mr. McGovern.

Senator LANGER. Will you repeat the question?

Mr. MITLER. Mr. Marcus, what was the content of your conversation with Mr. Joseph McGovern, assistant State's attorney, when you were interviewed by him at the State's attorney's office, with respect to the fee and the amount of money you received in case No. 3 on the card?

Mr. MARCUS. Senator, my objection to the question is based upon the reasons I have just immediately given and the other legal reasons previously stated.

Senator LANGER. I direct you to answer that question.

Mr. MARCUS. Senator, may I ask this question before I answer?

Senator LANGER. You may proceed.

Mr. MARCUS. Senator, may I ask a question before I answer that? If I answer this question, will this open the door to a violation of the privilege which the Senator has previously sustained?

Senator LANGER. I do not know; you had better ask your lawyer.

Mr. MARCUS. I have and that is the main reason I don't want to answer this statement because in my humble opinion it would so do and then in that way by attempting to get an itemization it would violate the attorney-client privilege which I am sworn and bound to protect.

Senator LANGER. We could dig up these questions in the order as they arise.

Mr. MARCUS. Senator, then I am going to have to refuse to answer.

Senator LANGER. I am sorry.

Mr. MARCUS. I am too, Senator.

Senator LANGER. Make your record.

Mr. MITLER. At this time I ask the witness be directed to answer the question again.

Senator LANGER. You know what the question is?

Mr. MARCUS. The witness considers himself to have been directed to answer and the witness declines to answer, respectfully.

Senator LANGER. Let the record show the witness refuses to answer.

Mr. MITLER. Now, on September 9, 1955, were you arrested for interfering with a detective in the performance of his duty?

Mr. MARCUS. Yes, I was. May I state——

Mr. MITLER. May I complete just one more question?

MR. MARCUS. I wouldn't say that was in the performance of his duty. I was arrested, yes, and the charge was for interfering with an arresting officer who had no warrant, incidentally.

MR. MITLER. In that particular situation, was the client you represent the mother of 4 children whom you have or now are in the process of placing in your State and interstate for adoption?

MR. MARCUS. Counsel, I represent—

First, your question has several parts to it.

MR. EHRLICH. That question is loaded.

MR. MARCUS. Secondly, if you break it down I will try and answer one question at a time.

MR. MITLER. Was the mother in that case, she was charged at that time with being an accessory to Margaret O'Connor, the so-called queen of the bandits of Chicago?

MR. MARCUS. Correction. That is not what she was charged with.

MR. MITLER. She was charged with—

MR. MARCUS. You have a case that has been publicized. I have represented her in a criminal matter along with other matters.

Now, this girl is on probation and I don't think, I wish I could discuss the case and I wish you had not brought it up because I was intending to use it without mentioning anything about it as an example, but now I can't, I would be violating attorney-client privilege.

MR. MITLER. Let us get back to the question. The girl in that case was charged with a criminal offense; is that correct?

MR. MARCUS. Yes; she was.

MR. MITLER. The officers were attempting to arrest her on another offense?

MR. MARCUS. They were attempting to make an illegal arrest, in my opinion.

MR. MITLER. Did you direct her in the presence of Charles Fitzgerald, robbery detail, to run when they tried to apprehend her?

MR. MARCUS. I did not.

The Senator was going to say something?

Senator LANGER. Go ahead, finish your answer, then we will recess.

MR. MARCUS. I would like to explain this. It will take a few moments. If the Senator would like to adjourn, I can hold it until later.

Senator LANGER. Well, we will recess until 1:30 p. m.—make it 2 p. m. Recess until 2 o'clock.

(Whereupon, at 12:30 p. m., the noon recess was taken.)

#### AFTERNOON SESSION

Senator LANGER. Let the record show the reporter from Ward & Paul was about 20 minutes late. The firm of Ward & Paul are fined \$20 for contempt of the Senate for not being here on time, and you will see that sum is deducted from whatever the charges for the Senate are.

#### STATEMENT OF RT. REV. MSGR. JOHN O'GRADY, SECRETARY, NATIONAL CONFERENCE OF CATHOLIC CHARITIES

Monsignor O'GRADY. I have appeared here this afternoon as a representative of the International Conference of Catholic Charities, and I have with me Mr. Daniel Quinn, who is an official representa-

tive of the Catholic Committee for Refugees. He has been engaged for many years in the placement of the European orphans from other countries for adoption in the United States.

I expect to have with me, I think he will probably come before the end of my statement, Mr. David Doyle, who supports my testimony on behalf of the National Catholic Welfare Conference.

The concepts included in S. 3021 are not new to those of us who have been concerned with the history of child welfare in the United States. By and large, the standards which we have built up have represented the struggles of large groups of immigrants for the preservation of the religious faith of their children.

In the past, the leaders of immigrant groups have had to struggle with those who would substitute another religious faith for the original faith of the children's parents. What we are now facing is an effort to eliminate all religious organizations from this field. In other words, we are fighting an effort to secularize completely all of our programs for the care of children in the United States. This effort, I am sorry to say, is being promoted by outstanding leaders in the field of welfare in our country.

Now, you may say to me that this legislation is not designed to weaken the programs of existing religious agencies, but in order to understand this bill one must keep in mind the efforts made a few years ago by the same group that are promoting the bill to introduce Federal standards formulated by the United States Children's Bureau in the placement of refugee children for adoption in the United States. While no provision of this kind was included in the Displaced Persons Act of 1948, when the regulations became available, we found that there was a provision for the designation by the United States Children's Bureau of the agencies to be involved. This involved us in endless complications in the various States. Sometimes there was disagreement between our agencies and the State welfare departments.

On the basis of the new authority given to it, the Children's Bureau insisted that the States should make a new evaluation of the standards of voluntary agencies. This, of course, involved us in a great amount of time, and involved many acrimonious controversies.

After a long struggle, this rulemaking authority was eliminated. We were permitted to work freely in the placement of children of our own faith and we have been able to do a very effective job in the face of very complex situations. We have placed all the children of our faith for whom visas were available under the Displaced Persons Act and before the Refugee Relief Act expires we will be able to place all of the children of our faith for whom visas will be available under this act. And we have been successful because we have enjoyed the freedom of working out our own programs without undue interference on the part of the Government.

It looks now as if for many years to come we were going to be involved in the placement of children from Europe and from other countries for adoption in the United States. We recognize that this involves many problems because of so many variety of ideas of adoptions in regard to the placement of children for adoption on the part of different countries. We have learned a good deal about these problems from our experience with the placement of refugee children and I am sure that through the years we will develop more experience that will be useful to us in this work of service on the international level.



We are well aware that certain Government officials and certain groups would like more governmental control in this field. They would like to have Government not only set standards but also make the studies of individual children. That is a point we want to stress, especially because, as I shall point out throughout my entire testimony, a large part of this work is an integral part of the pastoral of our church. And the moment we break down our own standards and our own thinking in regard to the placement of these children, then it is no longer possible for our agencies to continue as an arm of the parsonal ministry of the church.

I have had, for instance, many experiences in this work with individual problems. Here is, for instance, a prominent pastor comes in my office and he says, "Now, this family in my parish, one of the most prominent families in my parish is involved in difficulties."

Now, I have to be able to serve him, and he has to be able to service these families. He has to deal with them in a highly confidential way. He cannot tell them he is going to refer them to the county court or county judge or welfare department, through the State welfare department. He loses his whole status with these families the moment that he ceases to serve them when they are in trouble, and that is the kind of thing I would like to be particular in pointing out.

I got from him, for instance, after I talked over his problems with him, he asked me, "Can you not help me to establish contact with an agency of yours in some part of the United States, maybe it is a thousand miles off or 1,500 miles off, who would help me in working out this problem with this family in my parish?"

And then I am sharing in his pastoral ministry then. Now, according to this bill, even if I discussed with an agency, if I were to take my telephone and call this agency, and I would say, "Now, do you have anybody—I don't want you to make a record of this case. This is my understanding, this is the condition under which this pastor is dealing with his particular family. I cannot make a record of that case. The family wouldn't stand for it."

And then I talk with the agency and I say to the executive of the agency, "Now, this is a very complicated situation; it involves one of the most prominent families in our town, and I am talking with this pastor, he is here at my desk, and I would like to have him talk to somebody in your agency. He wants to talk to one person, but he will retain this as confidential information and we don't want to have any record made of this case, any more than he makes a record of the confidential relationship that exists with his parish."

He deals with one worker in that agency. I have seen that pattern followed in many instances.

Recently, for example, a prominent official of my church called me up and said, "Whom can you trust in such and such a city to handle this very difficult situation? This involves a very difficult situation in my diocese." This is an official representing one of our diocese in the United States. Finally, we discussed the matter and I said, "I will think this matter over and be in contact with you again." And finally I had to reach an agreement that there was one person in that jurisdiction, and that person, of course, was engaged in social service, but I had to deal with that on a confidential basis.

Now, suppose that this criminal statute is enacted. It simply means I am going to be in trouble for the remainder of my days because the



fact that I talked by telephone to somebody in another city, or I talked to this pastor, who represents another city. Now, according to this statute I am violating this statute, and am subject to prosecution by the Attorney General of the United States because, after all, he is the only one that can prosecute me for engaging in this so-called interstate commerce.

Now, I wonder how far that is a practical approach to this question of adoption. I always thought we should have an educational approach and should not call out the police or the FBI. And what would I have to do if the FBI were to put me on the stand and the judge was to put me on the stand. I would have to simply remain silent, because I cannot violate the trust that people under my jurisdiction have placed in me if I am working on behalf of the pastoral ministry of my church. Many times they phone me, officials of dioceses telephone me. "We are going to be put on the stand in regard to certain situations and what shall we do?" And they have always said, "You remain silent. You cannot discharge your pastoral ministry."

This is an invasionment on the part of the Government into the rights and prerogatives of the pastoral ministry. We had the same situation in the States and we have it now, only the States don't try to enforce it very much. But if we get the Federal Government into it we will be getting in more complicated situations because now they say you have to report every case, every child, born out of wedlock. You have to turn it over to the State Department.

Well, sometimes we go along and say nothing about it, but it is a well-known fact that we can't do that. We can't report all of these individual cases. Of course, it is very difficult because you have certain families, families that won't go to the governmental agencies, families that stood in silencio. They have been in need of help and dealt with welfare agencies and don't have any secrets left, because all of those secrets have been written into the documents that are prepared and contained in these voluminous documents that have been preserved by the welfare agencies throughout the years.

Mr. CHUMBRIS. May I ask a question?

Monsignor O'GRADY. Yes.

Mr. CHUMBRIS. Do you feel that subsection 2 of 1180, where it exempts placements made by child care or agencies who are licensed to, or authorized to, place children for adoption or for permanent free care is not sufficient to—

Monsignor O'GRADY. No. No. We have studied that very carefully and we have come to the conclusion that that is of no use to us because as I pointed out before we have to deal nowadays more and more with the sharing of our services on an interstate basis.

Now, at the present time, we do not have too much of a problem on that. The States know that we are doing that and if I were to call up, for instance, and say that I have—you see we have limited facilities in certain States in the country. Now, as I figured this bill, if I wanted simply to develop an exchange service between our agencies and they have to do that because we have very few members of our church in certain parts of the United States. We have, for instance, in the South, they have to use northern agencies.

Now if, for instance, I had a child, let's say, and I am working in Washington and I feel I want to keep this on a confidential basis, and

I want to place this child, let's say, with an agency in Philadelphia, and I am in Washington. Now, it might be that we had arranged to have this agency plan for the child. I would also have to be licensed in that State, as I read that law. And I would have to be, in many instances, in which I have figured out situations where I would have to be—and I can give actual cases—I could submit actual cases in which in the treatment of cases over a period of 1 week, I would have to be licensed in 10 States. And you know what would happen? Now, in some places the States would tell me because some of them are going there, if I am dealing in my own State it is a different story, because I can do business with them and there are various ways of doing business with them, as I will explain later. Some, I don't like to use, but sometimes I have to do it in order to protect our interests.

Now, we will have to be licensed in all these States. Now, there is a question there, there is a very important legal question because we have to discuss that with an agency in another State. Now, then, we are getting into interstate commerce.

Mr. MITLER. For our clarification, may I ask you a question?

Monsignor O'GRADY. Yes.

Mr. MITLER. Can you propose some way in which this objection that you raise could be corrected by reverting—

Monsignor O'GRADY. No. I don't see any reason. I think the whole approach in this statute is wrong. It begins by developing a penal, a national penal law, you see, criminal statute to deal with the social situation.

In other words, take these social problems. This is a huge social problem, I admit that. I think you exaggerate it to a degree—

Mr. MITLER. I am a little confused, because the statute does exempt from its operation all child care or adoption agencies licensed or authorized to place children for adoption or for permanent free care, and within my knowledge all of the agencies that are in your group are licensed agencies. Is there another situation that you have in mind because perhaps if you could tell us then we could overcome that difficulty?

Monsignor O'GRADY. Well, as I pointed out, I think you are beginning at the wrong end entirely. I think what you are doing here is developing—

Mr. MITLER. On this particular point?

Monsignor O'GRADY. You are developing your police force nationally. You are turning this over to the FBI, and you are making it impossible for us, even with a license, because I am licensed in a State, let's say, and that does not license me to place a child if I am licensed in Ohio—

Mr. MITLER. But, Monsignor O'Grady, the way the law was intended and the way it rather clearly reads, you would be exempt. In other words, this statute would not concern you at all in any way, shape or form. It would have no impact, no bearing whatsoever.

Monsignor O'GRADY. That means the statute is taking over the entirety of the States entirely.

Mr. MITLER. No, it wouldn't mean that. It means the statute is directed at some of these people we have spoken of who are in the process of receiving several thousand dollars for a child, and if it is weak and not clear, I am sure we will do everything we can to correct it.

MONSIGNOR O'GRADY. You see, my whole feeling about this is it effects—I am talking about actual practices.

MR. MITLER. I thought if we could clarify that point——

MONSIGNOR O'GRADY. I know very well right now what this thing will do to us in practice.

MR. MITLER. What will effect you?

MONSIGNOR O'GRADY. From the interstate placement of children for adoption, we have to do that in order to exercise our pastoral ministry. The States know we are doing it now. Of course, they kick about it.

MR. MITLER. But Monsignor O'Grady, your agencies are exempt and the States——

MONSIGNOR O'GRADY. I don't see that.

MR. MITLER. Well, it is here on page 3.

MONSIGNOR O'GRADY. I understand that. I have read that bill several times and I have read it in the light of my own experience in the placement of children for adoption and the problem of dealing with interstate lines. Either this is a straight Federal statute or it is not.

MR. MITLER. But it doesn't affect your agency.

MONSIGNOR O'GRADY. Well, now, but then it is simply—it simply says you exempt them with one breath and then you say that they can't take children over State lines on the other side.

MR. MITLER. Oh, no, not at all. This statute is intended to encourage placements of all kinds, but to give adequate protection, and on the one hand, it exempts from the operation, licensed agencies, and furthermore, it also permits interstate placement by licensed agencies.

MONSIGNOR O'GRADY. By licensed—by whom? The several States are licensed by the Federal Government.

MR. MITLER. I think you have raised a very good point, and there is a way we can clarify it. I thank you.

MONSIGNOR O'GRADY. But this is a Federal punitive criminal statute. In other words, you are trying by FBI methods to regulate and even that you exaggerate, because we know very well what happens right now. We have, for instance, these poor women, you see. They are in trouble. We are willing to help them rather than send the police after them.

MR. MITLER. Forgive me, I don't mean to be rude. This statute was not designed to send the police after the natural mothers or adoptive mothers. This statute is directed at the middleman who is exploiting the child commercially. And if the wording of it is weak, I am sure we can rectify it. If the statute is not directed that way.

MONSIGNOR O'GRADY. I understand that you exaggerate this middleman. It is difficult to define. For instance, here is a mother who goes to a hospital. At least, these are cases, case after case occurs, she goes there and talks to her doctor and then the doctor says, "Why don't you go to one of these agencies?" And she says, "My people don't like to have me go to any one of these agencies." We have a continued education in that field before us with our own agencies and convincing our own people. We are making progress and we think that is the way to go at it, an educational way, not by calling out the police or the FBI.



Now, he says to her, she says to him, or maybe the family says to him, "Well, we would like to have you, you must know some of your clients that have good homes who would like to get a child." And then she talks, and they make arrangements, or they don't. This is an informal sort of an arrangement. Nothing is written, and then she takes that child out to the sidewalk and turns it over to this mother. You see, I have seen that happen in many instances. And you can say then, you want to prosecute this doctor, as I understand it. How are you going to prosecute them?

MR. MITLER. No, Monsignor O'Grady, the statute is not directed to that.

MONSIGNOR O'GRADY. But you see, you place directly or indirectly that doctor is engaged in placing a child for adoption. This statute, it seems to me, from my knowledge of practice, I can see the difficulties, I can see our problems entering into a new Volstead Act here. I can see that the way it happens, that most of these things happen, is by getting—this lawyer is not making a business out of this thing in most of the cases that I have seen.

MR. MITLER. Would you say if he is making a business, there should be criminal sanctions against him for selling human beings?

MONSIGNOR O'GRADY. Well, now, this lawyer, for instance, take many cases where you have a lawyer involved. He is involved because—

MR. MITLER. Assuming he is making a business of traffic in children, assuming that as hypothetical—

MONSIGNOR O'GRADY. What do you mean by "business"?

MR. MITLER. Let me tell you what I mean by that. Suppose he devotes his waking hours—this is hypothetical—to finding unwed mothers and then places the child with out-of-State couples for several thousand dollars, and he does that day by day do you think that there should be criminal sanction against that kind of conduct?

MONSIGNOR O'GRADY. There is the difficulty that I can't—You see, in looking at it from a standpoint of actual practice, I see lawyers, and lawyers have told me that occasionally they help their clients to find a home for a child, and sometimes they help them by placing them in one institution for which I have some responsibility.

Now, I find it difficult there to know—I know I have heard a good deal about situations that I cannot discuss, because I can't discuss the Canadian situation here. It is an international situation and I don't want to be involved. I can't be involved in it. It is one of those things which I think is very delicate and very difficult and I think it is a mistake to discuss it.

Now, I will say that the amount of this traffic compared with the number of children that are actually placed by adoption is relatively small, in my judgment. Then, I think that a considerable amount is done by the hospitals, by the lawyers, and I wouldn't say that these lawyers are criminally culpable because they are violating no statute now, and they do the best they can about it. Or by nurses.

Now, I would say that, of course, if you were to simply compel these folks, how are you going to compel them to use these facilities that are open to them? Now, are you going to compel them by criminal statute, those that become involved directly or indirectly and have to plead guilty. I would have to plead guilty many times. As I have



said later in my testimony here, I have become involved in this matter continuously, because I have to be involved, for instance, in the relationships between the courts and, for instance, Houses of the Good Shepherds which have a number of 62 in the United States, and I believe they are the largest group of institutions caring for delinquent girls, and some of these girls are pregnant when they go to the institutions.

Now, I have arranged between courts and the institutions to have those girls placed. That is the only facility available. Maybe we ought to have better sorts of facilities but I don't believe that. Now—I would be responsible under this statute. There is no question about that, and if I were to set myself up in an agency and get a license, I would have difficulty in getting a license right now in those States because they would say, "Why do you have to come into our State?" We are perfectly able to take care of our own problems, you see, and that is the thing that I am up against now. And we have to use these facilities over State lines and I don't see how you can take over the responsibility of the State.

That State now says it is possible to license me, but when the Federal Government, as I pointed out before, gets into this picture, we find in our whole field of child welfare—that is the reason I have been protesting this new grant in programs that this department, this Government, is proposing at this time, because they tie us up in so many tight rules we can't operate any more. In other words, it is a highly centralized bureaucracy that we are facing in this United States of America, and I can't see how we can have any spirit left in us if we want to develop the kind of legislation that removes some of the best—that weakens some of the best things in our life.

Now, that is the assumption on which I base my approach to all of these problems. I know that we haven't reached a utopia in this business. I do feel we are making progress, and I do feel that if the Federal Government only gave a little more leadership—but their leadership is in the direction of becoming tighter and tighter, so that we have control, control, more and more control, more and more bureaucracy for us instead of encouraging us and enlightening our people and getting them to understand what the placement of children for adoption means. If the people understood this thing, and if we had proper educational approach, I think that is our only hope. It is a slow approach. I have seen this thing over a period of 40 years and I can see the vast improvements that are taking place.

We made a study of about 130 of our agencies placing children for adoption and we find a great change, and we find, moreover, that you are dealing with people in trouble. You have to begin with that problem, that people are in serious trouble. Perhaps a middle-class people and I think that when you are dealing with that class, your only hope is in educational approach. You have to be able to convince them you are not too rigid, that you can deal with them in a confidential way because, otherwise, you break down the morale of that family. You see, if the family allows all respect for its own integrity and for its own standards, and own self-respect, then that family is gone. It is a family dependent upon Government for the future, you see. That is what we want to maintain. This spirit of self-respect among our people and we don't want them to be subject to situations in which

they will be virtually compelled to violate the law, because that is what we are faced with in the particular statute proposed, as I see it.

That is part of the story, as I see it, and I think it is not easy to interpret the complications that are involved in the actual placement of children for adoption. It is not so much that, because you are dealing with prospective mothers in trouble. You are dealing with families in trouble. And how can you help families in difficulty? And that is the reason why they go to the lawyers, and they go to the doctors, and they intercede with the hospital and it is the last resort; it is a desperate hope they might be able to solve their problems.

The lawyers might be able to help them in solving problems and the doctor may be able and the nurses may be able, and they come to us and they say, "Now, we are dealing with you on a confidential basis." And then we have, of course, at times, had to forget about what the States want us to do. Even at the present time, and they say sometimes they are shocked, and when I say this thing out in the open it is because I have to, in order to arouse our own people to keep this interest in this thing.

I think as a representative of a strong voluntary group and, of course, I hope these voluntary groups will have some strength left very soon with the present drift of our Government. I am not sure how long our voluntary groups will have life left in them because with the present trend towards bureaucracy in our country, I am not sure how many voluntary efforts we will have left 20 years from now, and that is the kind of the thing I have to keep in mind all the time.

So long as I live, I am going to keep raising my voice about undermining our basic voluntary organizations. The organizations that are in this thing, because they have convictions in regard to helping people and they are not bureaucrats or technicians. They are people with deep, religious convictions in regard to the section of human beings, no matter how low they have descended in the law of human values. That is my basic premise in dealing with this spirit matter, and that is the reason why I am so gravely concerned about all of the implications of this type of legislation.

MR. CHUMBRIS. May I ask a question, getting back to section 2. If that section were amended to include not only child care or adoption agencies licensed or authorized to place children for adoption for permanent free care, were also to include "ministers, rabbis, priests of religious faiths in this country" would that help the situation?

MONSIGNOR O'GRADY. I don't think so.

MR. CHUMBRIS. That would take care of those church groups that do not have licensed agencies at this time but still would be in position of having cases come to them that they feel—

MONSIGNOR O'GRADY. Well, I have tried to study this thing as carefully as I can. I don't like this idea. I don't think the problem is large enough to bring the Federal Government into it so much and, as I see it, it is fundamentally a Federal statute because you have to remember this: When you take any of these bills, get them into law, then you get the rulemaking authority of the Attorney General, and what does the Attorney General do in making rules? He calls in the Health, Education, and Welfare Department. They send in emissaries. He sends for the Children's Bureau and they then proceed

to make rules. You would never recognize this statute when you begin to read all of the rules. I have seen this happen in this town. And you know it is interesting how people will struggle. It is a sort of a new crusade, you see. Get control, more and more control, instead of this educational approach.

I remember I was around here when this Children's Bureau was first set up. I know they don't like me testifying and what I say but I have to speak openly and frankly about these matters because, otherwise, I am dead as a representative of the voluntary organizations, if I go along with everything because some Government agency proposes it and sometimes I wonder how much he is looking for his own power or looking for the common welfare. Maybe that is synonymous. Maybe it is like the old idea that a certain organization or corporation, what is good for it, is synonymous with the interest of the United States. Maybe that is true here.

That is, their craving for power is synonymous with the welfare of the people. So, I am concerned about that and I don't want to be engaged in a type of thing that gives them a foundation for accusing me of bringing down standards, you see. I think that if I were thoughtless enough to suggest today that I should be exempt because I am involved in this thing all the time, out of any representation of a religious organization, I think that we need some standards in adoption. I am in favor of all that but I think we have to keep on looking at them and looking at them again and have all the people become involved instead of one group up at the top that knows everything.

So, I don't want to commit our agencies to a program that would be regarded as a step back, as entirely a step backward.

MR. CHUMBRIS. May I inject this? If the testimony today and from what we have received in Chicago and previous hearings indicate that the States that do have statutes to prohibit baby-selling, advise us through their testimony that they are incapable of meeting this problem when the child is moved across State lines, necessitating Federal regulations, would that change your view on this subject?

MONSIGNOR O'GRADY. No, I don't think that is serious enough or big enough to secure, because I think that may get some good results but I think the results on the other side would be the negative results. I think would be very bad. And they say, of course, what they say is this, virtually: Take a case like this, involving prominent family in a certain city. Now, this family got two children and our agency was rather concerned about it because they had turned it down before. They had some question about certain things in the family that they had gotten confidentially and it was difficult to use them. So, I had become involved in the discussion of that case and, of course, what really happened was this: Then the State welfare department began to make some moves and it was rumored around they were going to call on that family, some representative of the State welfare department and this man was, I suppose, in that city, was the most prominent person socially and from an economic angle he was prominent and from a political angle, too, believe it or not. So, he called up the governor. He called the governor by his first name and he said, "What are these women of yours doing in my home? What is wrong with my home?"



Now, some of those children, I believe, and although I would have difficulty in providing this, this is a very complex business, I think more complex than you are planning to make it. I had some reason for believing that a commercial operator was involved, with this prominent family and, of course, the State welfare was called off immediately. I can readily understand why that State welfare department, because you know I have seen these departments operate on the inside, too. They would like to have the Federal Government and by some kind of new power get control of the situation like that, but I am not sure it would work if it involved people of that caliber. Where you have a number of people like that and many of these people that are involved in this matter are people of considerable social prominence and political prominence and economic prominence and I am not so sure that even the FBI, if they were to get in on that case, with the Federal Government. I think that if you get that man combined with about 20 others in there, and I am quite sure that more than that would be interested. I am not so sure what would happen to the FBI on the case. I am not sure whether you could enforce that thing.

I have seen case after case like that. I have seen, for instance, last year in Wisconsin two cases in which I was interested. These were children from outside the country and, of course, one of our agencies, small agency, wasn't licensed to place children and, of course, had no business in this field.

And they did it over the protest of the major agency diocese and I think there were two families involved. I think there were, in all, four children.

Well, of course, the State department, welfare department, began to make a big fuss with my office and said, "What are you going to do about this business?" And then I began to ask them, "What are you going to do about it?" And I said, "Yes, this agency violated the law. There isn't any question about that. They had no business in this field. They had absolutely no business in it. They should have kept out of it. And I hope they will keep out of it for the future."

Now, these children were placed in a family. Well, now, the attorney general of the State came out and said, "They violated the law," but he didn't do anything about it, I notice. Well, I can see why the State welfare department would try to get some other police implement in there. They weren't able to do it by educational methods, and the natural tendency is to call in some other force.

Well, now in that case, two of our agencies joined in on this discussion and, of course, they were opposed to the way the thing was handled, and the way the homes didn't measure up to very good standards and, at least, they thought—but then they came to the judges.

Then, what are you going to do with the judges? Like in this other case of mine, I asked a prominent lawyer friend of mine, in the first case I referred to, where the man called up the governor and I said, "I would like to see something about what the judges are thinking about these two families, and these other families." This first prominent family, and finally this man said, "Now, that is hopeless. That case is virtually litigation." And he said, "As a lawyer, I couldn't become involved at all."



I decided he couldn't talk to the judge, but on this other case that I mentioned our agencies joined in appealing to the judge; State welfare department wouldn't even call on the judges. We asked them to see if they would call on the judge and they said, "No, it is too hot a situation for us right now." They were trying to get us steamed about it, but I can see in some situations like that and those were not, and the judges approved those placements. They showed their interlocutory decrees in each case.

What are you going to do in cases like that? There was an assumption here that we developed this punitive approach to these people instead of adhering to a basic educational approach and then we have had one police force unable to enforce the law, and then we say, "we will get some other superpolice force. Maybe they will solve this huge social problem."

In other words, maybe the problem that is here can never be solved by the American local community. I think it is too bad if we have to come to a situation where these huge social problems, that cannot be solved by local communities, by the State, but we have to go and get policemen from Washington.

Mr. CHUMBRIS. This morning, one young lady testified that she had a child she had placed before a legitimate placement agency. While that agency was making its investigation, along comes a person who is commercializing in this particular business, as she testified, and the baby was then placed through this commercial agency, rather than through the legitimate placement agency.

The second witness testified that the State welfare department official told her that if the so-called black marketing in the baby situation were wiped out, then the legitimate agency, such as the agency that you represent, Jewish agency, Protestant and Orthodox and other agencies, that are licensed by the State, they would have more children to place through legitimate channels. And that is what we are trying to do through this particular law, rather than to try to inject ourselves into bureaucracy.

Monsignor O'GRADY. I think I should answer the last part of your question, first. If, for instance, you were by criminal statute, because I have to say that is what this is, were to compel all of those mothers to turn all of their problems over to the existing agencies, the staff would have to be increased by 100 percent in order to take care of them. That is one side of it and the second side is this: That we are, in studying these things, at times, and I think the welfare agencies are making a big mistake on this. When they approach they forget that the judge has the last say in regard to these matters. And what they present, you see, on the other side, you see, on the other side of the family you have a lawyer.

Now, they make an investigation, you see, the lawyer has to have access to that investigation when the case is in litigation. Well, now, the judge, or the lawyer says, "Is this relevant?" or "Can you prove all of these facts you are alleging? Can you prove them, or is this hearsay?" When you want to get evidence on these situations, we find that the actual securing of evidence that will stand up in a court is a very difficult job.

We can have all of these allegations like we have had so many times on these congressional committees, all sorts of allegations but then when you get down to solid proof, that they are going to stand

up in a court of justice, and we are dealing with hundreds, with thousands of judges on this matter, we find human beings among judges. We could pick out a few sinners among judges. We are all sinners. You know we are not all perfect. We all live in the midst of sin throughout our lives. And I am just raising this question as to how, as to the problems of enforcing a national criminal statute as to whether or not it should hold up—or do you want to involve the judges. The judges all approve of these cases, finally, and what are you going to do with the judges? The judges are involved in the placement of children over State lines.

Now, if Federal civil agencies are, or State civil agencies, license a judge, I would like to know, for instance, take the judge in Washington who places a child out in Montgomery County. Is the welfare department of the District of Columbia going to license a judge? How does that accord with separation of powers? That is an issue involved here behind the scenes all the time.

The relationship of the State and local judiciary in dealing with these problems. We are not dealing with State welfare departments, as I pointed out. The judge has the last say in the proving of these adoptions, and you have a chance nowadays, as a rule in the departments, in the States, the judge has some sort of a report. He doesn't like it in many instances and he says a lot of it is irrelevant and I have seen judges go into an office of the judge, not long ago, and he says, "here are documents, my goodness, how much of this is relevant?"

In other words, in the presentation of evidence, you see, when you say that this is an improper family, that is a serious allegation to make. How can you prove it? Do you understand the character of the evidence that you should put up? You see in trying to prove these situations, that is necessary, because I think many times and I think it is true of my own agencies, are vulnerable under that head, because they make statements about families. Now, some of them, of course, have been secured on a confidential basis about the health of the family, their ability to have children of their own, and certain other problems, certain basic health problems, and the judges tell me this evidence they present won't stand up in court, you see.

Now, and I keep on coming back to that in this legislation of yours. You involve the judiciary and then after all a judge, you can't compel a judge to accept any set of facts. Can a civil agency compel a judge to accept any set of social facts? As I understand it, he accepts—the judge takes cognizance of these facts at his own discretion. That is as I understand the basic constitutional approach. He says, of course, as one of our famous Federal judges said, "We have to be mindful as judges of what we know as men. We have to take cognizance of social phenomena."

We learned that from that judge, but many of the judges still, like our law schools, haven't been sufficiently indoctrinated into social aspects of law. Not many law schools are paying too much attention. And this whole question of the judiciary and the standard of the judiciary and the standards of the legal profession today and the education of the legal profession today and the education of the legal profession is involved in this situation as it is involved in dealing with the social aspects of law in every other field.

Now, I think that I might—I have a summary here at the end of this. I wanted to be sure that I had conveyed to you the enormous

difficulties of this problem. I am not trying to simplify it. I think that is probably one of the problems in this bill. I think there can be no simplification of a highly complex problem. That is the way I see it. I have a summary on conclusions here, in which I tried to bring together the various concepts I have tried to develop in here.

Any objective analysis of the experience of the religious agencies in the placement of European children and children from other countries for adoption in the United States will show that they render a very splendid and most heroic service. I have seen them in operation on both sides of the stream. I have seen the enormous difficulties that they have had. I have seen them in south Italy and all over that continent and I think they have done real heroic service and it would be impossible for any Government organization to do the same type of service that they are doing. I mean, they are helpless to keep them out. That is the problem we have got with the governmental organizations. They have too many rules in this whole program of placing refugees.

Their programs are running quite smoothly. There is, therefore, no reason for the type of Federal Government intervention in this program envisaged by S. 3021. Government intervention in the early days of the program caused many delays and much confusion.

S. 3021 aims to control the interstate placement of children for permanent care and adoption by a Federal Government criminal statute to be enforced by the Attorney General of the United States aided by the FBI and other Federal agencies. The avowed purpose of the bill would be the punishment of commercial operators placing children for adoption on an interstate basis. While some commercial operators are engaged in the placement of children, they play a minor role compared with the doctors, lawyer, hospitals and others from whom the young women in trouble seek counsel.

Why do the expectant mothers seek counsel outside of the regular channels? They do so because they are afraid to deal with the established agencies and if all of them were forced by the proposed statute to have recourse to the established agencies, the staff of these agencies would have to be more than doubled.

The people who try to find children outside of the regular channels are often among the most prominent citizens of their communities. No statute involving so many prominent people would be enforced by any State. We know only too well that they would go directly to the governors office, or, in case of a Federal statute, to their Senators and Representatives.

If this bill becomes a law, we shall have the experience of the Volstead Act all over again. The agencies that I represent have to deal with unmarried mothers on a highly confidential basis. Their work is really an important arm of the pastoral ministry of our church. In this basic work of pastoral care they have to make arrangements for the care of unmarried, expectant mothers, considerable distances from their own homes.

No governmental agency, including the FBI, has any right to interfere with the confidential relationships that are incidental to the pastoral ministry. If this bill is passed, I can see us becoming involved in lawsuits in every State in the Union. In fact, I can see myself becoming involved in lawsuits in every State. Maybe it would be just



as well, if I were to pass the last years of my life in sacrificing myself for the principles for which I have stood for years.

We have under the care of our agencies throughout the country, many difficult-to-place children, handicapped children, children of minority groups, Indian children. We have to use the resources available to us over wide areas. It is impossible for us to deal with it on just a statewide basis, and the State departments, many times, are pleading with us—right now, in the placement of Indian children especially. Under this bill, as I read it in the light of my own experience, many of our agencies would have to secure licenses in 10 to 15 States.

If this proposed criminal statute is adopted, it will virtually govern all adoption in the United States. One might then ask—and then, of course, the States will sit back and not do anything about it. They will say, “Now we have passed this bill, and Congress has passed this bill. Let’s see what they will do.”

Then one might ask, “what is the FBI going to do about prosecuting the large number of juvenile and other court judges who now have the final say in regard to the approval of all adoption homes. The judges are now approving most of the independent adoptions. The laws usually provide that the judges must have some sort of investigation made, but the laws do not state that they must follow the advice offered by the agencies charged with the investigation. Now, one of the mistakes that we make in welfare agencies is this: we assume that by tighter legislation you can compel judges some of them—and if you compel judges, then the independent judiciary is out.

I have had this debate a good many times with State legislators throughout the year and on behalf of our agencies and a part of our various State committees, welfare committees in regard to these debates we have for adoption, and I find that the judges, the State legislators, most of them are loyal to themselves anyhow. They are careful about making too rigid these provisions. They know they won’t be enforced and if they have a provision, too, as Maryland has, that you must have an investigation made before any placement is made by anybody, it is never going to be enforced.

It is a pity that the framers of this bill did not give sufficient time to the study of all its ramifications.

I expected to have Mr. Doyle of the NCWC here, because he has worked on this testimony with me on the part of his agency and has approved it and now I would like to have Mr. Quinn supplement what I have to say in regard to this bill, S. 3021.

Senator LANGER. There isn’t much to supplement. You made a fine statement and one, I think, which will be of great interest to this subcommittee. Did you have a few things to add?

Mr. QUINN. Briefly, Senator.

#### **STATEMENT OF DANIEL P. QUINN, EXECUTIVE ASSISTANT TO THE DIRECTOR OF THE CATHOLIC COMMITTEE FOR REFUGEES**

Mr. QUINN. My name is Daniel P. Quinn. I am executive assistant to the director of the National Catholic Committee for Refugees, part of the National Catholic Welfare Conference. The Committee for Refugees during the last 10 years has been occupied with the re-



settlement of displaced and orphaned children through child-placement proceedings and adoption procedures. Through the efforts of our committee, in cooperation with the diocesan directors of Catholic charities, it has been possible to resettle 2,182 children from abroad. This work has been carried on with complete respect for the necessarily high standards of child placement. Because of the very nature of the problem involved, in adoption matters, such a program must be maintained on a sound basis. An agency accustomed to the assumption of responsibility for each child placed would subscribe wholeheartedly to the necessity for doing a socially sound job surrounded by the necessary safeguards designed to protect the best interests of all concerned in the adoptive placement.

I wish to associate the Catholic Committee for Refugees with Monsignor O'Grady in his presentation concerning his doubts as to the need for Federal legislation and its possible consequences. I would like to call the committee's attention to the fact that this same matter was the subject of discussion at a conference on protecting children in adoption, held in Washington last June. The report states that it was the consensus of the work group that no type of Federal legislation was necessary; that the matter of regulating adoptions is more a State than a Federal problem.

Where there is laxity in the State law, every effort should be made to correct it. Where such a condition exists, it should be brought to the attention of the State officials concerned. Incidentally, through the efforts of this subcommittee, I understand that the State of Illinois has tightened up in its laws and I believe in 1955 the State of Minnesota, likewise, enacted additional legislation.

Through education and interpretation of what adoptive placement really means, and the proper mode of operation, much could be accomplished in counteracting existing abuses. Furthermore, it is difficult to imagine that, in these United States where children are most precious, any State being informed of defects in its adoptive procedure would refuse to take action to correct the situation.

Senator LANGER. Thank you very much.

Miss Eleanor Guthridge is general counsel for the Committee on Refugee and Escapees. Will you see Mr. Quinn before he leaves?

Miss GUTHERIDGE. Yes.

Mr. MITLER. Will Miss Benedict, Mr. Watson, Mr. Ashbach, please come forward?

Mr. Watson, will you raise your right hand?

Senator LANGER. Do you solemnly swear the testimony you are about to give this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WATSON. I do.

#### TESTIMONY OF J. THOMAS WATSON, JUSTICE OF THE PEACE, LAKELAND, FLA.

Mr. MITLER. Mr. Watson, will you forgive me if we highlight your testimony, and would you favor me by talking into the microphone good and loud? Do you have the affidavit with you, or do you have the contents in your memory?

Mr. WATSON. I have the contents in my memory. I will give you the original. I gave you the original. Can you hear me?

Mr. MITLER. Yes.

Mr. WATSON. And I have the contents of it in my mind.

Mr. MITLER. All right. Now, Mr. Watson, you are an attorney and justice of the peace living in Lakeland, Fla.; is that correct?

Mr. WATSON. That is right.

Mr. MITLER. And I am going to bring up the background of the picture so we can just hit the highlights.

Some time in the month of January, or prior to January 1956, had you assisted and worked with a local doctor, Dr. Wayne Montgomery, in arranging for the placement in a family that you knew well, locally, of a child born to a former Chicago girl?

Mr. WATSON. That is right.

Mr. MITLER. And your client was someone that you knew, in the community?

Mr. WATSON. I knew him very well.

Mr. MITLER. And this was not one of these commercial transactions?

Mr. WATSON. Not at all.

Mr. MITLER. Now, the child was born on January 4, 1956, in a hospital in Lakeland, Fla.?

Mr. WATSON. Yes, sir.

Mr. MITLER. Now, after the child was born, did you then arrange to have the child received by the adoptive couple?

Mr. WATSON. I did.

Mr. MITLER. Now, the day, or a day or so after the child was placed, in early January of 1956, were you advised, or coming to your office, did your secretary speak to you?

Mr. WATSON. Yes; she did.

Mr. MITLER. Now, forgive me if I get to the point. She told you that there was a disturbance in the office about the placement?

Mr. WATSON. That is correct.

Mr. MITLER. Now, you went to your office and when you arrived there, did you see the man in this picture? [Indicating.]

Mr. WATSON. I absolutely did.

Mr. MITLER. And that is a man you have been told was the racketeer, William Manella?

Mr. WATSON. He has been identified to me as that name and by that record.

Mr. MITLER. What name did you know him under down in Lakeland?

Mr. WATSON. The only thing he said his name was Anderson.

Mr. MITLER. And who was he with at the time?

Mr. WATSON. He was with a lady of Italian extract. I think she said her name was——

Mr. MITLER. Let us not use the name. In any event, she represented herself to be a relative of the natural mother?

Mr. WATSON. I believe she represented herself to be a sister of the natural mother.

Mr. MITLER. And Manella, the man you now know as Manella, said he was whom?

Mr. WATSON. He was a friend of the family and looking into the matter.

MR. MITLER. And would you repeat his conversation with you and what he said to you?

MR. WATSON. Well, it was a very short conversation because I had been put on notice by my secretary that Doctor Montgomery had ordered him out of his office. She met me in the corridor and told me he was waiting for me. I went in, didn't ask him to be seated, asked him his business. He told me that he was there to find out what kind of a racket we were running. I asked him what he was referring to.

MR. MITLER. This man asked you what kind of a racket you were running?

MR. WATSON. That is right, and I said we weren't running any kind of a racket, and this was an ethical aboveboard adoption, and he said that he had been in communication with the natural father of this child and didn't know what was going on, and he was going to put a stop to it, even if he had to put somebody in jail, and the whole thing stunk to the high heavens. By that time, I was incensed and ordered him out of my office.

MR. MITLER. After that, did you learn that he had been to see Dr. Wayne Montgomery who had delivered the child?

MR. WATSON. Yes; he had, before coming to my office.

MR. MITLER. And you have an affidavit from Dr. Montgomery, and will you tell us, or read the one paragraph of the affidavit?

I will introduce the affidavit in evidence as subcommittee exhibit No. 11.

Senator LANGER. It will be admitted.

(The document referred to as subcommittee's exhibit No. 12 was received.)

STATE OF FLORIDA,  
*County of Polk:*

Before me, the undersigned authority, personally appeared Wayne O. Montgomery, a medical doctor practicing his profession in Lakeland, Polk County, Fla., and upon being by me first duly sworn, deposes and says that on the 5th day of January 1956, there appeared in his office one William Manella, alias Willie Anderson, a white male, approximately 40 years of age, whose identity is established by the attached photographs, full-size view photograph marked "Exhibit A" on the reverse thereof above my signature with closeup photograph bearing the number on the face thereof E3297, marked "Exhibit B" on the reverse thereof above my signature.

Affiant further states that on the date above mentioned, the said Willie appeared in my private office with a lady, who was identified as the sister of Mrs. Geraldine J. Naples, and the said Willie identified himself as a lawyer representing the Naples family and the said Willie almost immediately started to use strong-arm tactics accusing me, the doctor who delivered the Naples baby the day before, of unethical and unlawful tactics. His manner was very domineering and he exhibited the height of rudeness. The said Willie asked "What kind of racket are you people running?" and "This whole thing smells to the high heavens" (referring to the adoption of the baby in Lakeland, Fla., which was according to all moral and legal principles and which had been planned for over 2 months). The said Willie further stated "You guys ought to be prosecuted and we are going to get that baby back if we have to go to court."

Affiant further states that the said Willie used indecent and profane language and affiant states that he thereupon ordered the said Willie out of his office and in no uncertain manner.

WAYNE O. MONTGOMERY, M. D.

Sworn to and subscribed before me this 14th day of May 1956.

[SEAL]

LOIS MILLS,  
*Notary Public, State of Florida at Large.*

My commission expires September 19, 1959.



Mr. MITLER. Just give us the highlight of it, summarize it.

Mr. WATSON. To summarize it, he used the same tactics on Dr. Montgomery that he used on me with this exception.

Mr. MITLER. Did he ask Dr. Montgomery what kind of a racket "you people are running" or "this thing smells to high Heaven"?

Mr. WATSON. Yes, he did; and he used profanity toward Dr. Montgomery and curse words which he did not use in my office.

Mr. MITLER. The affidavit says:

you guys ought to be prosecuted and we are going to get the baby back if we have to go to court.

Mr. WATSON. That is what he told Dr. Montgomery.

Mr. MITLER. And to highlight it, as a result of that, did you feel the people were insecure with the child and advised them to return the child?

Mr. WATSON. Yes, I did. I got in touch immediately with the adoptive father and told him that because of what had arisen, that there could be no security that the identity of the natural mother would have to be revealed in the event we took it to court, to stand on our contention that we had properly executed under the Florida laws. And I said being that, even though we went into court we had the probability of losing in the long run and I advised they return the baby back to the pediatrician who, in turn, returned it to the hospital that night.

Mr. MITLER. Had you known the true fact that this man was acting on behalf of Gale Marcus to obtain babies for interstate market, what would you have done?

Mr. WATSON. I would have fought him until now.

Mr. MITLER. You came in as a spokesman from your community to tell us what occurred?

Mr. WATSON. Yes; that is correct.

Mr. MITLER. I think I should state that you are a justice of the peace in your community.

Mr. WATSON. That is correct, thank you.

Mr. CHUMBRIS. One other thing, Mr. Watson. The child was returned through the intervention of this man, William Manella, and so far as you know, the natural mother and this man went off with the child?

Mr. WATSON. I am not informed by whose authority that the next morning the hospital bill was paid by this man known to me now as Manella and the lady that appeared in my office, the three of them left the hospital with the baby together. Where they went from there, I don't know.

Senator LANGER. Thank you.

Miss Benedict, will you raise your right hand, please? Do you solemnly swear the testimony you are about to give this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Miss BENEDICT. I do.

### TESTIMONY OF CONSTANCE BENEDICT, CHICAGO, ILL.

Mr. MITLER. Now, Miss Benedict, will you highlight your testimony? First your name is what?

Miss BENEDICT. Constance Benedict.

Mr. MITLER. And you live in South Lofland Avenue in Chicago?



Miss BENEDICT. That is right.

Mr. MITLER. And you have come here, voluntarily, you did not have a subpoena, but you have cooperated with the subcommittee; is that right?

Miss BENEDICT. That is right.

Mr. MITLER. You asked to come here to show the nature of the interstate placement business; is that correct?

Miss BENEDICT. That is right.

Mr. MITLER. Now, have you been employed or associated with any attorney, Mr. Ashbach, who is here with you?

Miss BENEDICT. Yes; I have.

Mr. MITLER. And in your capacity as his secretary, did you carry out some of the matters, some of the depositing of money in connection with Mr. Ashbach's interstate placements?

Miss BENEDICT. Yes; I have.

Mr. MITLER. Now, just to summarize. Was it Mr. Ashbach's practice to receive in advance a certain sum of money from the out-of-State people he was going to place children with?

Miss BENEDICT. Yes.

Mr. MITLER. What was that sum of money?

Miss BENEDICT. I wouldn't say there was a set sum.

Mr. MITLER. What was it roughly?

Miss BENEDICT. Well, I think, usually, to my knowledge, it was around \$1,000.

Mr. MITLER. And then after the children were placed, another amount in about an equal amount was received by your office?

Miss BENEDICT. Well, now, I can't honestly say but I know there were expenses involved.

Mr. MITLER. I see.

Miss BENEDICT. And that they were taken care of.

Mr. MITLER. Well, did there come a time there was an accumulation of deposits, about \$12,000, at the time of our hearing in Chicago of people who had given deposits for children?

Miss BENEDICT. Yes; I would say there was.

Mr. MITLER. And, incidentally, I think one of the things you want to bring out is whether Mr. Ashbach continued or abstained from the activity?

Miss BENEDICT. No. From the time of the investigation in Chicago, Mr. Ashbach absolutely refused to handle any more adoptions and returned to the people any moneys that he held of theirs.

Mr. MITLER. Now, were there two occasions when you flew children directly into New York?

Miss BENEDICT. That is correct.

Mr. MITLER. I mean you were the courier into New York?

Miss BENEDICT. That is correct.

Mr. MITLER. I mean you were the courier into New York.

Miss BENEDICT. Yes; I was.

Mr. MITLER. Were there some occasions when the people came to Chicago for the child when that was the first time you or Mr. Ashbach had seen them?

Miss BENEDICT. Yes, it was the first time I had seen them.

Mr. MITLER. And I think the next question about what he knew about their backgrounds can be best answered by him.

Miss BENEDICT. I believe so.

Mr. MITLER. Now, is it true on those two occasions the children were returned to Chicago and to your knowledge, the natural mothers were required to come into darkened offices in Mr. Ashbach's office and the children were returned to their arms, and placed with the adoptive couples?

Miss BENEDICT. Yes.

Mr. MITLER. Do you know the man in this picture [indicating]?

Miss BENEDICT. I have seen him, yes, and I know him as Willie.

Mr. MITLER. Now, did he used to hang around in Mr. Ashbach's office?

Miss BENEDICT. Yes, he did.

Mr. MITLER. He had no business with Mr. Ashbach, but he hung around the office at 105 West Adams Street?

Miss BENEDICT. Yes.

Mr. MITLER. Now, in the conversations you had, what did he talk about?

Miss BENEDICT. Adopting children, or obtaining children to adopt.

Mr. MITLER. Did he ever ask you to locate children?

Miss BENEDICT. He asked me if I had any connections where I could find him children?

Mr. MITLER. Could you give us the savor of the way he expressed it?

Miss BENEDICT. Well, first of all, he asked me if I knew of any hill-billies on the South Side or some girls I could make contact with that would supply him with children.

Mr. MITLER. Did he say for what purpose, or did you gather—

Miss BENEDICT. Yes, for adoption. That I knew.

Mr. MITLER. By himself, or other people?

Miss BENEDICT. He didn't tell me who he was adopting them for. My only connection with him was just conversation in that respect, that he wanted children, that he could handle for adoption. Whether he was doing it or not, that I don't know.

Mr. MITLER. Do you know what attorney he was associated with?

Miss BENEDICT. I believe—I can't honestly say this. I believe he was associated with Mr. Marcus.

Mr. MITLER. Was there an occasion he took you in a car by a pregnant mother?

Miss BENEDICT. Yes, at one time.

Mr. MITLER. What did he say as you drove past the pregnant mother?

Miss BENEDICT. He wanted to know in my opinion if I were an adopting parent if I would be satisfied by seeing this mother, because the people that were adopting the child, did want to see what the mother looked like.

Mr. MITLER. In other words, this was short of a prenatal—or preview—

Miss BENEDICT. What my opinion of her looks would be as a mother, as to how the child's looks may turn out.

Mr. MITLER. What did you tell him after you drove by?

Miss BENEDICT. I told him it was almost impossible to say what any child would turn out to be because the parent could be, or have, any physical defects and you could still have a beautiful child.

Mr. MITLER. Now, did he tell you where he had been to secure children or attempted to secure children in the United States?

Miss BENEDICT. No; he never discussed that with me.

Mr. MITLER. Did you learn from——

Miss BENEDICT. I have learned from conversations; yes.

Mr. MITLER. What did you learn?

Miss BENEDICT. Well, I understand that he had been down in Augusta, Ga., that he had been down in Florida; that he had tried to make contact with colleges, but as to my actual conversations with him in that respect, no.

Mr. MITLER. Now, at the time of our last hearing, did you have occasion to go to a boat that was in the Chicago Bay Section of Lake Michigan?

Miss BENEDICT. Yes; I did.

Mr. MITLER. Who was on the boat?

Miss BENEDICT. Well——

Mr. MITLER. Was Mr. Gale Marcus on the boat?

Miss BENEDICT. Yes; he was.

Mr. MITLER. Did he make any comments about our committee's proceedings when you went out there?

Miss BENEDICT. I am under the impression that—I will say this: At the time of the investigation, at the time it was going on, I was not on the boat and did not see Mr. Marcus that particular day.

Mr. MITLER. Prior to that?

Miss BENEDICT. No; it was after the hearing.

Mr. MITLER. After the hearing?

Miss BENEDICT. That I saw Mr. Marcus.

Mr. MITLER. Was he on the boat?

Miss BENEDICT. Yes; he was.

Mr. MITLER. Well, what did he say with respect to the hearing or indicating whether he knew that he was under subpoena or wanted?

Miss BENEDICT. From conversation I knew they were looking for him to subpoena him.

Mr. MITLER. But what did you gather about his knowledge of that?

Miss BENEDICT. I can only say I believe he knew.

Mr. MITLER. I have no further questions.

Are there any questions?

The name of the boat was the *Beau Jack*?

Miss BENEDICT. Yes; *the Second*.

Senator LANGER. Thank you very much.

Mr. MITLER. Mr. Ashbach.

Senator LANGER. Do you solemnly swear that the testimony you are about to give to this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ASHBACH. I do.

#### TESTIMONY OF SOL H. ASHBACH, ATTORNEY AT LAW, CHICAGO, ILL.

Mr. MITLER. What is your name, please?

Mr. ASHBACH. My name is Sol H. Ashbach.

Mr. MITLER. And what is your address and what is your occupation?

Mr. ASHBACH. My occupation is attorney at law, 105 West Adams Street, Chicago, Ill.

Mr. MITLER. Mr. Ashbach, you have taken the position that you want to cooperate with the subcommittee; is that right?

Mr. ASHBACH. That is correct.

Mr. MITLER. And you want to analyze your method and the method of procedure of interstate placement, and I think you are anxious to point out some of the weaknesses that you believe exist?

Mr. ASHBACH. Yes, I do.

Mr. MITLER. All right.

Mr. ASHBACH. May I—

Mr. MITLER. Now, you are not taking this position out of expediency, I take it. This is your honest conviction after studying the situation?

Mr. ASHBACH. Definitely.

Mr. MITLER. Now, may I just say that—I didn't take this up with you before—before you became a lawyer, you were in another field?

Mr. ASHBACH. That is correct. I was an entertainer.

Mr. MITLER. And I believe you won a rather substantial contest; you went to law school and became a lawyer?

Mr. ASHBACH. That is correct.

Mr. MITLER. Harvest Moon Ball?

Mr. ASHBACH. No.

Mr. MITLER. Sorry.

Mr. ASHBACH. Strangely enough, it was a contest sponsored by what was then the Herald Examiner newspaper in Chicago, and also the Smart Set magazine.

Mr. MITLER. I see. Now, after you became an attorney and started to practice law, did you engage, in one manner or another, in the placement of children on an interstate level?

Mr. ASHBACH. Yes; I did.

Mr. MITLER. Will you describe very briefly what your method—I think you can break it down. Would adoptive parents contact you sometimes by telephone?

Mr. ASHBACH. Yes, sir.

Mr. MITLER. And in some cases you knew the people?

Mr. ASHBACH. Yes, sir; I did.

Mr. MITLER. And in some cases you didn't know very much about them?

Mr. ASHBACH. That is correct.

Mr. MITLER. And I think it is of some value.

What is your opinion at this point as to your knowledge of the ability of anyone in your position to know about people in another community, under those circumstances?

Mr. ASHBACH. When you ask me that question, there is really only one thought that comes to my mind. That would be a comparison, such as a shoemaker trying to repair a fine precision watch. I don't believe that any private person should make any attempt whatsoever to assist in any way in the placement of children in connection with adoption matters, whether they be State or interstate.

I don't believe that any private person has the facilities. I won't say that an individual might not have the ability, but they wouldn't be possessed of the organization and the system as used by proper licensed agencies.

Mr. MITLER. Well, taking up that point, these people who called you from New York—on some occasions, the first time you would see them was when they came out to Chicago for the child?

Mr. ASHBACH. That is correct.



And I now don't feel, frankly, that I was in a qualified position, really, to be able to pass proper judgement on whether or not the entire situation was correct in this respect.

Sure, the people would come to me highly recommended, and I don't doubt that they would be very fine people, and I would accept recommendations and believe them. Sincerely and frankly, I felt that I was doing a very good thing, but I don't believe that I was actually in a proper qualified position to pass on the qualifications of parents, to pass on the qualifications of anything except the legal phase.

Mr. MITLER. I see. About how many placements did you make, Mr. Ashbach?

Mr. ASHBACH. In a period of approximately 18 or 19 years, I would say somewhere either just below 40 or right about.

Mr. MITLER. And you would receive in advance how much from the out-of-State adoptive parents?

Mr. ASHBACH. Usually a thousand dollars.

Mr. MITLER. And then, when they came for the child, how much in addition?

Mr. ASHBACH. Usually an additional thousand.

Mr. MITLER. And how much of that would be absorbed in expenses?

Mr. ASHBACH. Expenses sometimes would run as high as \$1,800, and sometimes the full \$2,000, and sometimes even more.

Mr. MITLER. I see.

Were there any cases where the natural mother put you under duress and got a substantial amount of money?

Mr. ASHBACH. Frankly, yes.

Mr. MITLER. Was there a case where a mother put you under duress and obtained \$2,000?

Mr. ASHBACH. That is correct.

Mr. MITLER. And were there threats used?

Mr. ASHBACH. I have been threatened; yes.

Mr. MITLER. That highlights another phase.

Mr. ASHBACH. Which is another reason why private individuals should really have nothing to do with placement service.

Mr. MITLER. Well, to clarify the point, the \$2,000 case was an exceptional case; is that right?

Mr. ASHBACH. Yes, it was. It is not the rule; it is the exception.

Mr. MITLER. I mean, there are cases where the mother even pays her own hospital expenses.

Mr. ASHBACH. I have known of them; yes.

Mr. MITLER. You heard testimony this morning—

Mr. ASHBACH. Yes. I heard testimony today to that effect.

Mr. MITLER. I mean, the point is that you consider the payment of \$3,000 perhaps rather a high amount?

Mr. ASHBACH. I would think so; yes.

Mr. MITLER. Especially the normal hospital costs and putting all the costs together, normally how much do they run to?

Mr. ASHBACH. I would say the average hospital cost would be between \$150 and \$200.

Mr. MITLER. I don't want to leave the impression that there isn't any profit when somebody receives \$3,000.

Now, there were two cases, Mr. Ashbach, in which—

Senator LANGER. Wait a minute.

Wouldn't you say that in some instances \$2,000 would be all right, \$3,000 would be all right, depending upon the amount of work that is done and how many trips were taken, what the expenses were?

Mr. ASHBACH. Yes, I would say it is possible; yes. I wouldn't be in a position to know.

Senator LANGER. You wouldn't be in a position to know. Each case would depend upon its own facts?

Mr. ASHBACH. It would have to stand upon its own feet.

Mr. MITLER. Let's assume not one penny is passed. Do you think the same dangers would exist, as you say—suppose it was done as a charitable act, and you in Chicago didn't know the people. They just came there blindly. Do you think the same dangers as you described would exist if the money element were taken out?

Mr. ASHBACH. Absolutely.

Mr. MITLER. So, the ugliness of money is not the determining factor; it is the carelessness of the placement method?

Mr. ASHBACH. That is my opinion.

Mr. MITLER. In other words, you didn't know anything about the people and you weren't in a position—they might have been bringing or getting a divorce. You didn't know the motivation?

Mr. ASHBACH. No, sir; I did not.

Mr. MITLER. Now, here were 2 occasions when you had your secretary fly 2 children to New York?

Mr. ASHBACH. Mr. Mitler, I would have to answer that this way: Two children were flown to New York, and were taken there by my secretary, but the arrangements were not made by me. They were made directly by her.

Mr. MITLER. I see.

Mr. ASHBACH. I——

Mr. MITLER. In any event, it wasn't necessary to have the children returned, and the natural mother had once again put the children in her arms and replaced the child.

Mr. ASHBACH. Yes, sir; that is true.

Mr. MITLER. Now, I can't emphasize too strongly that I think you share the feeling that the evil, the danger here, is not confined to the fact that money is passed, but is due to the fact that here is a life-giving, life-enduring decision that is made without adequate knowledge. Am I correct?

Mr. ASHBACH. Frankly, I think that money is secondary. I think the careful placing of the child is the important factor.

Mr. MITLER. Now, you have analyzed, looked at the bill and, I think, as a matter of fact, you went and—a rather unusual situation—you conferred with some of the child welfare people here in Washington?

Mr. ASHBACH. I did; with the head of the Department and, I believe, her first assistant.

Mr. MITLER. I see. Would you tell us what your opinion is about the need for the bill and any other views you have, very briefly, please.

Mr. ASHBACH. I can answer it virtually in one sentence.

I feel if such a bill were passed, it would be the most effective method of bringing about the conclusion that is cited, namely, the careful and proper placing of children.

Mr. MITLER. Thank you, Mr. Ashbach.

Mr. CHUMBRIS. I have just one question. Would you give us a breakdown of the general case that you handled; not the exceptional case, as to the different expenses that you would have.

Mr. ASHBACH. Yes. I will be happy to.

The hospital bill would usually be anywhere from \$150 to \$200. The doctor's bill would usually be about \$250. The mother would be receiving expenses to live on anywhere from 3 to 5 months ranging from as much as \$40 to \$75 a week, and she would receive as much as anywhere from \$200 to \$500 until she would get back on her feet after she would leave the hospital.

Mr. CHUMBRIS. And other than that, are there any others?

Mr. ASHBACH. Court costs, of course. Court costs in the State of Illinois now include a guardian ad litem fee and can run as high as about \$1 or \$5 or \$1 to \$8.

Mr. MITLER. Thank you.

Senator LANGER. Wait a minute. When your secretary returned those two babies, who paid for the cost of that?

Mr. ASHBACH. I beg your pardon?

Senator LANGER. When your secretary returned—

Mr. ASHBACH. I did not.

Senator LANGER. Who did?

Mr. ASHBACH. The people did, the adopting family.

Mr. MITLER. Thank you, Mr. Ashbach.

State's Attorney Gutknecht of Cook County.

Would you raise your right hand?

Senator LANGER. He doesn't have to be sworn. State's attorneys are reliable men, the most reliable men in the United States. Unless you want to be sworn.

Mr. MITLER. No, no. That is an inadvertency on my part.

Your name is what?

#### STATEMENT OF JUDGE JOHN GUTKNECHT, STATE'S ATTORNEY OF CHICAGO, ILL.

Mr. GUTKNECHT. John Gutknecht.

Mr. MITLER. And you are State's attorney at Cook County, Ill.?

Mr. GUTKNECHT. Right.

Mr. MITLER. I want to thank—the subcommittee wants to thank you for coming here to help us in connection with the study and analysis of Senate bill 3021.

Now, I know that you want to discuss the bill, but there is just one specific situation I would like to ask you about.

Briefly, Mr. Marcus today has testified that he had a conversation with one of your assistants and he stated that it was of confidential nature.

Could you present the facts on that?

Mr. GUTKNECHT. I would feel that he was definitely mistaken on that because our attention was called to it—I forget the name of the case—Barker.

Mr. MITLER. I would prefer the record not to indicate.

Mr. GUTKNECHT. I assigned the particular case to Mr. McGovern to investigate. Mr. McGovern reported to me several times. All the witnesses that we could get ahold of we did talk to. I know



he talked to Mr. Marcus and there could have been no arrangement for it being confidential, save as Mr. Marcus might have said to him that he might have some privilege. That, of course, I wouldn't know.

I do know that after Mr. McGovern reported to me that he had as yet developed no evidence. You see, we were limited. We did not have an opportunity to talk to the people that got the child. Mr. Marcus saw me and told me—I asked him whether he could get the child back. He said he could. He said he would try to, and a few weeks later he brought the child back. The child, I understand—I never saw the child and I don't believe Mr. McGovern ever saw the child—was delivered back to the natural mother.

Mr. MITLER. At that time you did not know, as we have under testimony, that \$3,200 was passed for that child?

Mr. GUTKNECHT. No. There was, according to McGovern's reports to me—he had no knowledge of that sum of money or any kind of a sum of that nature. The mother said she got \$50.

Mr. MITLER. I see.

Now, I think that brings us to a very critical point. What would have been your obstacle in that case and in other cases like this, assuming that you wanted to speak to the out-of-State adopted parents? What is the roadblock?

Mr. GUTKNECHT. We have in Illinois no reciprocal law in connection with witnesses. In fact, we had a few weeks ago a matter involving a labor threatening where one of the witnesses is just across the border of the city of Chicago, lives in the State of Indiana. Unless we can find him some day when he comes into Chicago, since he has refused to come in, there is no way we can get him. And, consequently, our examination was limited to the people in the district, in the Cook County area, and nobody was sent to New York because if we had sent them, we would have had that expense and would have had no way of bringing that back. And of course, that is one of the very vital reasons why I consider a bill of this nature so vital.

Mr. MITLER. Excuse me. The gentleman on your left is Mr. Erwin Black, first assistant State's attorney for Cook County, is that right?

Mr. GUTKNECHT. That is right.

Mr. MITLER. Thank you for being here, Mr. Black.

What are some of the other problems that you have in connection with this problem, not only from the prosecution point of view, but any other point of view you want to touch on?

Mr. GUTKNECHT. I might give you a general idea, very short.

I came into that office in 1952. I had been on the bench for a number of years, and we began to see a situation. We never got any complaints from the State welfare agency, but we were familiar, from some other complaints and from the general gossip in connection with this baby problem.

We immediately tried to get the legislature to pass a law against baby selling, and we got that through in 1954. I think it is going to be quite valuable to us if one loophole, that I will come to in a moment, is stopped.

We then, in the first part of the year, got all the agencies together. We have established a committee. I have one of the aldermen of Chicago, Mr. DuPres, who is acting as chairman of that committee, and I think the committee is doing a very substantial job. I have 4 of my assistants on that committee.



But the greatest difficulty we have is—naturally, any kind of baby selling problem is difficult, because you start out with the people not wanting to testify. But, the great problem is that the tougher the laws get, the more chance there is that the babies are marketed across the line, and just as soon as you tighten up, as we have been trying to do in Illinois, and particularly with that law we got passed last year, just as soon as you tighten up, then the tendency is going to be that the babies will be farmed across the State, and I know of no way, as of today, that the welfare, the State welfare agencies who have this job, can really function.

They haven't the facilities, and they haven't the authority to function across State lines. It is their duty to get in touch with the State's attorneys, if they have any evidence for prosecution, but as in that particular case we spoke of, the evidence at your end is apt to be very limited.

Now, I want to say this; that basically I am not inclined to favor any more Federal legislation if it can be avoided. I was quite interested and somewhat sympathetic to some of the things that Monsignor O'Grady said here, though I did feel that that kind of a laissez faire attitude in connection with this problem of placing children cannot be successful because this baby market is going to grow and grow unless we have some Federal help. I feel that very strongly.

MR. MITLER. In other words, you support the objectives of this bill?

MR. GUTKNECHT. The objectives of the bill and the general framework of the bill. I have 1 or 2 little matters—I won't take your time now, but I will submit them to you.

MR. MITLER. Surely.

MR. GUTKNECHT. Incidentally, I have a prospective report that this committee of mine is going to give out. I will leave the prospective report for you and later on send you the final report.

MR. MITLER. I would like to be able to incorporate that in the record.

SENATOR LANGER. That will be exhibit No. 13.

(The document referred to was marked "Exhibit No. 13," and reads as follows:)

#### STATE'S ATTORNEY'S COMMISSION ON ADOPTION, CHICAGO, COOK COUNTY, ILL.

##### INTRODUCTION

On February 15, 1956, Cook County State's Attorney John Gutknecht convened a meeting of representatives of Chicago area adoption judges, enforcement officials, Chicago Bar Association, adoption committee members, licensed adoption agencies, Cook County and State department of public welfare, and attorneys practicing in the adoptive placement field. The purpose of the meeting was to discuss present laws on the placement and adoption of children; their enforcement; needed changes in the law; and the activities of individuals participating in the unlicensed placement of children for adoption by non-relatives.

So that the purposes of the original meeting could be achieved, and formalized in a report to the State's attorney, Mr. Gutknecht appointed a small working committee of representatives of the various groups who had been invited. The committee met periodically, discussed various aspects of the adoption problem, and heard invited guests representing interested groups in the community.

## UNLICENSED PLACEMENTS IN COOK COUNTY

Committee discussions established the fact that the adoption problem in Cook County centers in the unlicensed placements for adoption by nonrelatives, comprising roughly one-third of the adoption cases in the Cook County courts. The other two-thirds are divided about evenly between adoption by relatives, and adoption through licensed child-welfare agencies.

The committee concerned itself primarily with the independent placements. The following briefly summarizes the present situation in Cook County.

Independent placement arrangements flourish in the Cook County area. Of the independent placements which result in adoption petitions in the Cook County courts, three-fourths involve placement of infants with Cook County residents. The remainder are placements with out-of-state residents—particularly in New York, Indiana, and Michigan.

The usual pattern in independent placements is for an unmarried mother and a physician, lawyer, or clergyman to plan the adoptive placement of the unborn child, ordinarily with the assurance given to the mother that all medical costs will be assumed by a prospective adoptive couple known to the intermediary. Frequently, the couple also contribute to the maintenance of the mother before and after birth of the child.

Generally, the mother leaves the hospital with her child, and by previous arrangement then has the child turned over to the adoptive couple. In effect, the mother gives her child through an intermediary to a couple whom she does not know.

In a number of cases, when the mother does not leave with the child, the hospital asks the Department of Public Welfare under the Hospital Licensing Act to approve release of the child to a couple named by the intermediary. In Illinois cases, such approval occurs after a licensing study of the home so as to assure that minimum licensing standards are met (Placement of Children in Homes Act). In out-of-State cases, the Illinois Department asks the appropriate welfare departments to provide adoptive home studies. On the basis of favorable reports, the Illinois Department then gives approval for release of the child to an out-of-State home. Increasingly, other States have referred to give the requested service, on the basis that they do not wish to participate in placements effected by unauthorized intermediaries, and cannot legally do so.

Since the Illinois Department knows nothing of the child or his background, such legal approval of release from the hospital gives no assurance that the home is the most suitable for the child. Because of the unsoundness of such hurried preplacement studies, and the refusal of other States to cooperate, the Department of Public Welfare is now considering the withdrawal of such service from the hospitals.

Usually the mother signs a consent to adoption before the clerk of the court shortly after she leaves the hospital. Under recent rules promulgated by the local courts, the mother is interviewed by a social worker in the Cook County or Illinois Department of Welfare office in order to help her understand what her consent means and to obtain from her her preference as to the religion in which the child is to be reared.

The adoption petition, according to law and current court rules, is filed 6 months after the child's placement. In Cook County the adoption petition must bear the home "license number" so as to satisfy the court that the home was studied before the filing.

In Cook County the court then orders that an advisory study of the adoption situation be made by, or through, the Cook County or Illinois Department of Welfare. As mentioned above, in out-of-State situations, requests for studies are not always honored. In some cases there have been violations of out-of-State importation laws. After favorable reports are presented to the court, and other court requirements are met, the adoption is decreed.

A word need be said about the intermediaries. For some intermediaries the independent placement has become a full-fledged practice: for some it is highly remunerative; and for some it is only a well-intentioned service. Under any circumstances, the intermediaries operate as unauthorized persons, and, according to the Placement of Children in Homes Act, in violation of law.

## AGENCY VERSUS INDEPENDENT PLACEMENT

1. In general the committee agreed that agency placements offer far greater protection to both the children and the natural and adoptive parents, than do

placements effected through independent arrangements, including situations where the natural parents place the child directly.

2. The committee was divided in its focus—as to whether adoption placement is aimed at providing the best home possible for the child, or whether the aim is to provide worthy families with infants. In agency placements the former point of view is dominant; in independent placements the latter.

3. Committee members differed in their appraisal of independent placements. Some believed they were totally unsound. Others distinguished between (1) well-motivated private placements by well-intentioned persons, and (2) placements made for monetary gain. The latter were disapproved unanimously. A minority seemed willing to approve the former.

4. Underlying the minority opinion for approval of well-intentioned private arrangements was the fact that Jewish couples generally cannot obtain adoptive children from agencies because there are very few Jewish children available through agencies and the religious matching which agencies generally require prevents other children from going to Jewish homes. In private arrangements, religious matching is likely to be disregarded.

5. A minority opinion was that unless licensed agencies, particularly the non-sectarian, are willing to make interreligious placements, Jewish couples would be virtually barred from adoptive parenthood and, conversely, Jewish homes would be virtually eliminated for placement of children. The alternative is to allow independent placements.

6. Significantly, the more the commission discussed agency versus private placements, the more firmly convinced did members become that agency placements generally offer greater protection to the child and the parents.

Originally the private intermediary became involved in adoption because there was a need for placement service and few communities had qualified agencies to render the service. The practice of the private intermediary has persisted.

The safeguards and aids which attend agency adoption placements can be totally absent from the independent placement. The dangers to the child and the adopting parents are very great. Judge Otto Kerner of the county court observed that in 1955 and 1956 the cases in which denials of adoption petitions were necessary for gross and tragic errors in adoption were all in cases of independent placement. Capricious selection of the adopting home, inadequate evaluation of the child, absence of observation of the child in the home—these and other failures spell tragedy. No child should be subjected to haphazard, ill-advised placement, and every child placed for adoption should have adequate protections provided by the community.

#### COOK COUNTY PROCEDURES IN ADOPTION CONSENTS AND INVESTIGATIONS

As a minimum safeguard, Judges Otto Kerner, John Lupe, and William Touhy, who hear adoption cases in Cook County, determined in 1955 that in unlicensed adoption cases they would require at least that the advisory investigation be made by the Cook County or Illinois Department of Welfare. This was a tremendous step forward, because up to that time, independent nonrelative placements had been referred to miscellaneous individuals, many of whom were often obligated in advance to approve the adoption. Although mere investigation of an accomplished placement does not either adequately protect the child nor provide a good placement, it allows the community to evaluate what is happening. As a result, black marketeers have somewhat reduced the number of adoption petitions they have filed in Cook County courts and have apparently, to some slight extent, "taken their business elsewhere."

The judges have also directed that the taking of adoption consents in their courts be preceded by interviews with the Cook County Department of Welfare.

The effect of the rules has been to provide the Cook County Department of Welfare with a solid mass of established facts which the community can act, since every unlicensed nonrelative placement now comes under scrutiny of the department.

The following are the findings of the Cook County Department of Welfare:

"(1) Many of the placements are made by someone other than the natural parents, such as a lawyer, doctor, or friend. In other instances even though the natural mother herself makes the physical placement, the selection of the adoptive parents has been made by another person.

"(2) In the majority of adoptions processed through court service division, the child has been in the home of the adopting parents for a period of time before



the commencement of the agency's investigation. If court service division were a child placing agency, a large percentage of these homes would not have been considered suitable for the placing of children.

"(3) In almost all instances of private placements, money has been paid by the adopting parents for the child. Usually this money is paid through a lawyer or doctor. Investigation has shown that such payment of money was to meet the cost of doctor and hospital bills and attorney's fees, and on some occasions, payments were made to the natural mother to meet her living expenses during pregnancy. The total amounts of payments have varied from \$550 to \$3,000. We do not know whether all amounts paid have been frankly disclosed to us.

"(4) It has been found that those mothers who come into court service division to sign a consent either on the day they are released from the hospital, or shortly thereafter, are physically and emotionally upset to the extent that they are not capable of making rational decisions.

"(5) In private placement many children are being adopted by individuals whose religion is different from that of the natural parents.

"(6) Many individuals who obtain children through private placement either had submitted applications to child placing agencies and were rejected, or did not try to make use of child placing agencies because they felt their application would not be accepted."

#### ENFORCEMENT

##### *Unlicensed placement of children*

The commission believes that the existing statute on placement of children ought to be enforced. A copy of the statute is attached. The legislature has made it a misdemeanor for an unlicensed person who is not related to the child to receive a child, with or without transfer of custody, unattended by parent or guardian, for placement in a home for adoption. No unlicensed family home may receive an unrelated child for adoption. When they have available evidence of violations, the departments of welfare ought to make it available to the State's attorney and prosecutions ought to be instituted. We believe that the departments cannot themselves prosecute and the State's attorney cannot investigate effectively until cases are brought to his attention.

Since the statute has not been fully enforced, the State's attorney and the department ought to announce their intentions publicly in advance. The commission suggests also that the first cases be selected with care in order to meet the requirements of the statute and to hit at flagrant abuses.

The same recommendations apply to enforcement of the statute against paying money for placement.

These statutes clearly preclude the activities of persons not authorized or qualified to place babies in adoption and make it mandatory that a nonrelative have a license. Well-intentioned persons, including physicians, lawyers, and clergymen, will desist from illegal activity in the field if apprised of the requirements of the act. Those who are not well-intentioned may be prosecuted and their activities successfully curtailed.

##### *False birth certificates*

The commission also recommends enforcement in black-market adoption cases of the statute which prohibits false information on birth certificates. False birth certificates are occasional adjuncts of commercialized adoptions.

##### *Responsibilities of social and governmental agencies if Placement of Children Act is enforced*

If the placement of children law is enforced, we can expect that physicians, clergymen, lawyers, and hospital administrators will refer more adoption cases to governmental and private child placement agencies. As a matter of fact, this is a trend which has been going on for 25 years. Enforcement of the statute would only intensify the trend. However, can we be sure that the governmental and licensed agencies will be able to deal with the increased referrals?

When a physician refers a case to a licensed agency or to a governmental agency, will he simply receive the reply that "Under the rules, there is nothing we can do"? "If you care to have the people apply or have the girl come in in the regular way, we will see whether anything can be done." If a hospital administrator notifies the county or State department that an illegal placement is taking place, will the reply be: "There is nothing that we can do. A regular verified complaint would have to be filed, and then the law would have to take its course in the usual way."



It is extremely important, as enforcement proceeds, the private and governmental agencies must stand ready to help. The professional associations ought to be encouraged to demand compliance with legal standards. Hospitals ought to insist upon complete disclosure from physicians in illegal placement cases. Ministerial associations ought to acquaint their members with standards in adoptions. However, all of this will lead to an increased burden on the agencies, which they must assume with understanding and flexibility. If they do not, then the black and gray market will prevail. The black and gray market, while they violate basic standards of decency and of fairness to the child, are usually able to offer quick and simple handling of the adoption. The price may be the happiness of the child and even of the adopting parents; but a routine service has been rendered, and perhaps even some money paid to lighten the difficult burden. By flexibility, understanding, promptness, and diligence, the agencies can not only render the same immediate relief, but can perform a valuable service to everyone.

#### EXISTING PROCEDURES

##### *Dependency petitions*

The Commission recommends a vastly expansive use of the dependency proceeding in adoption cases. Where there is any doubt about the placement of a child the prompt filing of a dependency petition allows the family court to exercise supervision at once and to make sure that the placement is a favorable one. This proceeding has, of course, been used with tremendous effect over the years, but it has not generally been considered as an adjunct of adoption cases. The commission suggests that it ought to be used by the State's attorney and at the request of the private and public agencies in cases of doubt about the outcome of impending placements. It would be a valuable tool, for example, in cases where hospital administrators announce a doubt and where the protection of the child is urgent.

#### THE FACTOR OF RELIGION IN ADOPTION PROCEEDINGS

The present Illinois Adoption Act provides that in entering a decree of adoption, a court shall whenever possible give custody through adoption to a petitioner or petitioners of the same religious beliefs as that of the child. Father Brogan, of the Catholic Home Bureau, expressed the Catholic point of view about this subject. He said that catholicism regards religion as a birthright, and believes with the utmost firmness that the child of a Catholic parent is entitled to a Catholic upbringing. Other religious groups have similar feelings. The head of a child-placement agency said that, in her opinion, the religion of the parent was a very important factor in determining where the newborn child ought to go. She divided American children into three great religious groups—Catholic, Protestant, and Jewish. Some members of the committee feel that the religious provision of the Adoption Act should be given literal and mandatory interpretation.

Others believe that it is a directory provision and that the natural parents of the child can waive the religious requirement. As a practical matter, the religious requirement plays a vital part only when the question is raised in an adversary manner.

Some members of the commission feel that the religious qualification has no place in adoption proceedings. They argue that the aim of the law and of agencies in placement is promotion of the best interests of the child and that the religious paragraph may prevent the child from being placed in the best available home. They raise the question of constitutionality. They do not address themselves to cases where the change in religious atmosphere might disturb the child and where judicial discretion would certainly be exercised, but they speak of the newborn child who has received no religious training.

It is apparent that there is a rigid practice among sectarian agencies. Since they receive their funds from members of a sect or religion, they feel bound to place children only within the same religious group. Some members of the commission feel that public agencies ought not to be bound by such practices and that creation of more public placement agencies would relieve the pressures on the now overloaded private agencies and would greatly aid the war of the black markets in adoptions.

In any event, present requirements do tend to be rigid. For example, persons in a mixed religious marriage would find it virtually impossible to obtain any child from nearly any licensed child placement agency. Although this is a problem for the welfare agencies to deal with, it is a serious one. If a substantial group of the population feel that licensed child placement will bring severe in-

justices, public support for licensed child placement may be weakened. Therefore, it is extremely important that the practices of licensed child placement agencies meet the community standards for fair dealing.

#### NEW LEGISLATION

1. The commission is of the opinion that the present statute which prohibits the importation of children into Illinois for adoption should, unless a notice is given within 30 days, should be extended to prohibit the sending of a child outside of Illinois for adoption in nonrelated cases, except in case of a placement by a licensed child welfare agency or pursuant to permission from the department of welfare. We believe that part of the decline in the number of adoptions in Cook County is attributable to the fact that black market babies are being exported from Illinois and adoption proceedings are being filed elsewhere. The commission is not prepared to recommend that adoption petitions be denied to non-residents. There are too many cases where adoption by nonresidents is appropriate and desirable. However, the commission feels that a strong statute prohibiting exportation of nonrelated children is extremely important, in order that welfare of children born in Illinois may be enforced, even by extradition proceedings, against violators. The only alternative appears to be Federal legislation prohibiting unlicensed traffic in interstate commerce.

2. The commission also recommends that the statute on dependency petitions be amended to permit the filing of dependency petitions in the circuit, superior, and county courts, as adjuncts to adoption proceedings. At present the court in an adoption proceeding has only the alternatives of entering a decree or denying it. Very often, the court ought to extend its jurisdiction so as to protect the child and see that it is properly placed or housed.

3. The Placement of Children Act and the act prohibiting payments in adoption cases should be very carefully studied by representatives of agencies and lawyers, with a view to substantially strengthening them and bringing them into line with the laws of neighboring States, such as Wisconsin, Michigan, and Indiana. This action ought perhaps to await action on the first two recommendations. Actually, Illinois is behind the mentioned neighboring States.

#### INFORMATION

The commission recommends that informational pamphlets be printed and widely distributed both by public and by private agencies.

#### NEGRO ADOPTIONS

The commission is aware that at present there are more Negro children available for adoption than there are adopting families. The commission views this as a temporary situation which is likely to change, as did the situation with white children. Fifty years ago it was difficult to find an adopted family for a white child. The commission views its recommendations, however, as applicable to all children. Even though a greater effort is required to find any adopting family for any Negro children, the parties to all adoptions are entitled to the safeguards of careful procedure so as to prevent human tragedies.

#### CITIZENS' COMMITTEE ON ADOPTIONS

The commission is of the opinion that its work was limited and that the entire subject requires careful consideration. The State's attorney asked us to look into limited legal aspects of adoptions, and we have done so. Perhaps Chicago ought to follow the example of Los Angeles in establishing a citizens' committee on adoption to make a much longer study and produce more thoroughgoing recommendations. We urge that the recommendations of this Commission should be implemented as soon as possible. They should not await the formation or deliberation of another committee. However, we do feel that such action might be most helpful. Possibly the State's attorney himself, or the judge of the county court, or other representatives of public and private interests might take the initiative in forming such a citizens' committee on adoption. There are still many questions. There are still many answers to be sought, and there are still many heartbreaking adoptions which ought not to occur. There are still many children entitled to a fair chance of happiness who are not receiving it. The commission feels that great praise is due the conscientious and creative work of the State's attorney, the adoption judges in the county

court, the circuit court, the superior court, the deeply interested and concerned officials and personnel of the Illinois Department of Welfare and the Cook County Department of Welfare and to the persons in public and private office who are concerned with protecting the lives and happiness of children against both the rapacity of mercenary brokers in human beings and also the well-intentioned and misplaced activities of untrained intermediaries, etc., etc.

Mr. MITLER. There is a point that you brought up in our discussion in Chicago. I think it is a very vital one and I thought perhaps you might touch on it, but very briefly, what you think one of the basic root problems here is. That is, religion.

Mr. GUTKNECHT. This is a very ticklish thing to discuss. I know you are familiar with it. I know our literature is familiar with it throughout the country.

It is the religious and racial problem. The racial problem, of course, is essentially tied up with the religious problem excepting in the question of the colored babies. We recognize that for Jewish people there are few available babies. We recognize that in certain other categories there are more babies than there would be applicants.

Then, in addition to that, you have something that the welfare agencies have never been able to solve. Necessarily, the welfare agencies will be essentially religious and just as soon as you come down to the mixed religion of the child, you have a very difficult problem for the agencies to solve.

Now, I have to take a, shall I say, philosophic attitude to that. We haven't solved that. I don't know how it is going to be solved. I do know that maybe we will have to give ultimately a little more attention to standards for welfare agencies, placing agencies. That hasn't been done on anywhere near a national scale. But I think that is another step, but somewhat in advance of what you are considering right now.

Mr. MITLER. Mr. Black, do you wish to add anything?

Mr. BLACK. I don't know that I have anything to add to what Judge Gutknecht has already said, but I would say that I, too, favor the bill. I think it would have the salutary effect of compelling investigations by agencies that are suited to make these investigations on an objective basis, which would be for the welfare of the child on the social basis.

On the other hand, I would say that States like ours are hampered as far as prosecutions are concerned because of the fact that we don't have an interstate compact with other States to make witnesses available to us from across State lines.

Mr. MITLER. A good many States do have that. In other words, such as New York. They can reach out and by compulsion follow a procedure which brings witnesses into the State, but your State doesn't have that.

Mr. GUTKNECHT. That is right.

Incidentally, I might say that I see you have some pictures here. I brought some other pictures along of the same man in case they are of any value to you. I hope if we can't locate him you can.

Mr. MITLER. We would like to have the opportunity of interviewing him. He is eluding us rather diligently.

Thank you both very much for coming.

Mr. GUTKNECHT. Thank you, Senator.

Senator LANGER. Mr. Gutknecht, I want you to know that the committee very much appreciates the great help you were to us when we had our hearings in Chicago.



MR. GUTKNECHT. I want to say this, Senator, and you know I have had some previous experiences with committees and with your committees.

I have found that in every instance of a congressional investigation there was an ultimate great advantage even regardless of the legislation that the committee sponsored. And I hope, and feel sure, that that will be part of the gain from the work of this committee.

SENATOR LANGER. If we had cooperation from all other county attorneys and States attorneys that we have had from you over there in Cook County, we would have a magnificent report, I can assure you of that.

Senator Kefauver, after the Chicago hearings, told me that he had had the best cooperation, at least up to that time, that he had had from any States attorney or county attorney in the entire United States. I think that is the feeling of Senator Wiley who was with us at those hearings in Chicago.

The city of Chicago and Cook County, I think, should be congratulated for having a fine outstanding States attorney such as you have proven to be there in that territory. I congratulate the people of that county.

MR. GUTKNECHT. You make me blush, Senator, but I thank you.

SENATOR LANGER. Call you next witness.

MR. MITLER. May I read this telegram:

TO HON. SENATOR KEFAUVER, *United States Senator*:

Owing to illness I am at Cedars of Lebanon Hospital now for 2 weeks. Deeply sorry, therefore, unable to respond to your kind invitation. My opinion on juvenile delinquency was sent in the middle of March to my dear friend, Peter Chumbris.

(Signed) Archbishop MICHAEL.

He is the head of the Greek Orthodox Church of North and South America.

Captain Jones.

SENATOR LANGER. Wait a minute. Mr. Marcus has waited a long time. Are these people going to catch a plane or something?

MR. MITLER. Yes. Some of these people are going to catch a plane, and I thought I could put them on and highlight their testimony.

SENATOR LANGER. I promised I would call Mr. Marcus back. I don't want to inconvenience Mr. Marcus, because we called him and then we put on Monsignor O'Grady and told Mr. Marcus we would call him right after.

Is there any objection, Mr. Marcus, to some of these other people testifying who want to catch a plane?

MR. MARCUS. Senator, I would like to be able to get back to Chicago, if I can.

SENATOR LANGER. In view of that, we will finish up with Mr. Marcus. We will recall Mr. Marcus.

### TESTIMONY OF GALE MARCUS—Resumed

MR. MITLER. Mr. Marcus, in the course of our investigation we found that in most of the cases where you had placed children interstate, Mr. Manella had either solicited the natural mother or had contact with her.

Can you explain to the subcommittee that if his sole purpose was to secure a child for himself for adoption, that you felt he was quali-



fied, how was it that in the course of all these cases with your help and his presence all the time he was not able to get one of these children for himself, and that all these children went to either Chicago or out-of-State people?

Mr. MARCUS. Counsel, may I have just one question at a time? I can't answer a speech. Just one question at a time, please.

Mr. MITLER. Isn't it a fact that that story that Mr. Manella wanted to adopt for himself is a concoction on your part?

Mr. MARCUS. I resent that very much. It is not a concoction on my part. It is a fact.

Mr. MITLER. I want to state to you that this matter has been investigated exhaustively and that I have spoken to Mrs. Manella repeatedly, and I asked her, and she stated she had no intention of receiving any further children for adoption.

Mr. MARCUS. May I answer that?

Mr. MITLER. Well, I just make that as a statement for the record.

Mr. MARCUS. You make a statement which is not a fact, counsel. I happen to know your conversation and the circumstances under which it was given.

Mr. MITLER. How do you know the conversation?

Mr. MARCUS. Because I had occasion to have her phone me—I shouldn't say had her phone me—she did phone me. I have tried to, and in deference to the Senator, I have tried to conceal the conduct of Mr. Mitler in Chicago.

Mr. MITLER. Well, bring it out now.

Mr. MARCUS. All right. I will do that.

Now, I received a telephone call from Mrs. Manella, who was in a hysterical condition at the time. She had stated to me that 2 persons had come to her door around 10:30 or 11 o'clock at night. One identified himself as a police officer from the Rogers Park Station, gave his name, but she was home alone and did not know him.

Another person identified himself as Ernest Mitler, chief investigator of the Senate subcommittee.

She telephoned the Rogers Park Station and asked if there was such a police officer. They said "Yes." She was quite frightened. She nevertheless, put on a dress over her nightgown and opened the door. Before her were two gentlemen whom I am told were Mr. Mitler and the police officer. After they identified themselves, the first remark that came from Mr. Mitler, and in a state of intoxication, was, "Honey, you got a beer?" And then he proceeded to interrogate her to the point—

Mr. MITLER. Senator Langer—

Mr. MARCUS. To the point where she was hysterical when they left and she telephoned me.

Incidentally, that evening, Mr. Mitler and the police officer, and others were spent at a tavern on the corner near the Manella home. Mrs. Manella and her 7-year-old daughter were kept awake most of the night by pounding on the door and constant interrogations over a matter which she had no knowledge of. So I am told.

After several days of this type of treatment, Mr. Mitler came to the door and asked one question: "Mrs. Manella, are you interested in adopting a child?" And she said, "Heavens no, not now."

Mr. MITLER. All right.

MR. MARCUS. And this is what she repeated to me.

MR. MITLER. Now, may I state this, and I am prepared to take the oath and state——

Senator LANGER. You are under oath.

MR. MITLER. I am under oath.

I now state that Mrs. Manella's reporting to you of the situation is completely erroneous, and I stake my professional reputation on that. I want to state that Mrs. Manella and I have had a congenial relationship, except for the first night, when she was disturbed when we came there.

MR. MARCUS. So conventional——

MR. MITLER. Just a minute. I don't use the expression, "Honey, do you have a beer?" I have too much respect and dignity for the committee I work for. I don't speak in those terms. I went there with a warrant from the United States Senate, with Officer Stan Hardin. He directed me there from the Rogers Park Police Station and he was with me all the time. I was at all occasions with representatives of the law enforcement agencies of Cook County.

Mrs. Manella said to me—Would you give us your attention, Mr. Marcus? Extend us that courtesy, instead of smiling and snickering. I don't think there is anything funny about it; perhaps you do.

MR. MARCUS. I don't think there is anything funny about it, if what she said was true.

MR. MITLER. The first night, I didn't request a beer. I wasn't intoxicated, and I don't address a woman as "Honey." I don't use that kind of language, and I don't approach a situation in that manner.

We went there and asked her where her husband was. She said her husband was at a bowling alley, and she wasn't exactly sure which one it was. She was friendly and congenial.

We went to the bowling alleys, and she said it was all right to come back. As a matter of fact, offhand I don't—I think we came back; yes. It might have been some time after 9 o'clock. We told her we wanted to speak to her husband.

Would you let us have your attention? Thank you very much.

MR. MARCUS. I am paying attention.

MR. MITLER. You don't find it boring, I hope.

Now, that evening I made the agreement with her. I rang her up and I did say to her, "Mrs. Manella, because we have gone to the bowling alleys and your husband hasn't come home, it is my feeling that you are not cooperating with us."

That is the strongest statement I ever made to her. It is the only statement that I think could be interpreted as rude.

But apart from that, my conversations with her were friendly. She told me about social events and her family. She spoke to me always in an amiable way. I was there on one other occasion. I was with a representative of the sheriff's department, the chief investigator. We had a conversation there, and she did say that she was upset.

Thereafter, she said she was trying everything in her might and main to have her husband meet us, and I stayed in Chicago several days, and, as a matter of fact, she told me that she knew of you, that her husband said he had been to an attorney, and the attorney had advised her not to cooperate with our committee.

She told me on another occasion that she thought her husband was in Nippersink Manor, Genoa City, Wis. I went up there and met the

sheriff and searched through the county, and attempted to go to Oakton Manor. I was with the sheriff of that county.

I have spoken to her several times since and assure you—she is not happy, no, because people from other departments had been there looking for her. But since you made those statements, I am going to stake right now my professional reputation. Those things never happened.

Senator LANGER. Ask your next question.

Mr. MARCUS. Mr. Mitler—

Senator LANGER. I told him to ask the question.

Mr. MITLER. I would also like to get an affidavit from every police officer who was with me, and submit it to this committee.

Senator LANGER. We are not going into that matter. Ask your question.

Mr. MITLER. All right.

Did you tell Policewoman—did you offer a bribe to Policewoman Rosemary O'Brien of the Chicago Police Department, in relationship to the case under investigation, case No. 3, if she would go easy with you?

Mr. MARCUS. I have never offered a bribe to Rosemary O'Brien or any other.

Mr. MITLER. I just asked you—

Mr. MARCUS. Just a moment. When that case was under investigation, I wasn't a bit concerned about it, only for the publicity involved, because of the child involved and a client involved. That was my only concern about that case. As a matter of fact—I have answered it, I think.

But I would like the committee to know this—

Senator LANGER. You have answered it.

Ask the next question.

Mr. MITLER. Did you go to Council Bluffs, Iowa, and represent to the authorities there that the girl who testified this morning, from Council Bluffs, had stolen your wife's 14-carat diamond ring? Did you represent that to the authorities of Council Bluffs?

Mr. MARCUS. I did not represent that she had stolen a 14-carat diamond ring, because I can't afford to give my wife a 14-carat diamond ring. But what I did say was that at the time I was in Council Bluffs, my wife's star sapphire was missing, and it was found about 4 or 5 days later in the jewelry box of this girl in the maid's room.

Mr. MITLER. Did you tell the prosecuting authorities in Council Bluffs that she had stolen a ring?

Mr. MARCUS. At that time, I did. That was the day after she left, and I also reported the theft of money from my bank, which consisted not of \$27 but of \$72.

Mr. MITLER. You had placed her children?

Mr. MARCUS. I did not place her children or anybody else's children, under the placement statute of the State of Illinois.

Mr. MITLER. What did happen to her children, then, Mr. Marcus?

Mr. MARCUS. Those children were placed.

Mr. MITLER. By whom?

Mr. MARCUS. By her.

Mr. MITLER. What did she do about the placing? Did she know the adoptive parents?



Mr. MARCUS. No; but I had told her about them.

Mr. MITLER. Did you know the adoptive parents?

Mr. MARCUS. I did.

Mr. MITLER. You think they were suitable people?

Mr. MARCUS. I do.

Mr. MITLER. You evaluated the situation, didn't you?

Mr. MARCUS. Yes.

Mr. MITLER. And you were the one who also thought her child was suitable for that family; is that correct?

Mr. MARCUS. I did.

Mr. MITLER. And you still say that she placed, and you didn't?

Mr. MARCUS. I do.

Mr. MITLER. Well, what acts would you have to perform so you would say you yourself had placed in the case?

Mr. MARCUS. I don't quite understand what you mean.

Mr. MITLER. Well, if you knew the adoptive parents, if you knew the mother, it was your judgment that was utilized, and what is missing? What did you do that is lacking in the question of placement?

Mr. MARCUS. I don't understand the question.

Mr. MITLER. Well, perhaps your lawyer will explain.

Mr. EHRLICH. No. The lawyer can't. I don't understand you, either.

Mr. MITLER. What element is missing, Mr. Marcus—what element is missing of the acts that you performed that would spell out placing the child?

Mr. MARCUS. Frankly, it would be difficult to answer. There is no decision in the State of Illinois.

Mr. MITLER. If there isn't any decision, then how can you say the mother placed?

Mr. MARCUS. Because I have my own opinion as to the statute.

Mr. MITLER. Tell us your opinion of what constitutes placing.

Mr. MARCUS. I think a placement might take place where a mother is not advised or counseled with reference to the placement of a child, or where there is an actual physical delivery by one other than the mother.

Mr. MITLER. Well, in any event, did you submit a background study to the Illinois Department of Public Welfare in this case?

Mr. MARCUS. I did.

Mr. MITLER. And in there, did you state that the original plan was that the child was to go to the aunt and uncle of her boy friend, who was in jail in Council Bluffs?

Mr. MARCUS. That is what I was so advised.

Mr. MITLER. Did you hear her testimony here today?

Mr. MARCUS. I sure did.

Mr. MITLER. Just let me finish. Did you hear her state that that was simply a story that she told her husband?

Mr. MARCUS. I heard her state that, and learned sometime afterward that it was a story, but at the time I first heard it and the time I reported it to welfare, I had believed the story.

Mr. MITLER. You did have prospective adoptive parents waiting for her child, Mr. Marcus?

Mr. MARCUS. According to what the putative father told me; yes.

Mr. MITLER. Well, others, on your own, people in New York City—



Mr. MARCUS. Yes.

Mr. MITLER (continuing). And eventually one of those persons received the girl: is that correct?

Mr. MARCUS. That is correct.

Mr. MITLER. And those people had been interested in receiving a child for adoption?

Mr. MARCUS. That is right.

Mr. MITLER. How many children have you assisted in placing, Mr. Marcus?

Mr. MARCUS. I don't assist in placing—counsel, in my opinion.

Mr. MITLER. Oh, I see.

Mr. MARCUS. I counsel and advise.

Mr. MITLER. Well, in how many cases have you counseled and advised?

Mr. MARCUS. In all of my years of practice, I would estimate somewhere in the vicinity of 30, and that covers about 15 years.

Senator LANGER. In how many years?

Mr. MARCUS. Fifteen years. I will give you the exact number of years—13 years—14 years.

Mr. MITLER. Now, how many of these within the last year or two, Mr. Marcus?

Senator LANGER. Wait a minute—1 year or 2 years?

Mr. MITLER. Within the last year.

Mr. MARCUS. I did not total the last year. If you want a guess, I could possibly guess.

Mr. MITLER. Well, has there been an increase since you have an affiliation with Mr. Manella?

Mr. MARCUS. No. The affiliation, as you call it, is not an affiliation. There has been no increase since I have known him. It happens in recent years—and that gets into another matter which I want to discuss—you have had a conflict more recently—Korean action; many of these matters are social problems, and I think conflicts such as war increase these problems.

Mr. MITLER. That is not the answer to the question.

Have you a statement there you want to read?

Mr. MARCUS. No.

Mr. MITLER. I notice you were reading something.

Mr. MARCUS. I have some notes here on things I wanted to discuss.

Mr. MITLER. Now, do you recall an occasion where Mr. Manella went down to where the truckers came into Chicago and made arrangements with a man who lived in Richton, Miss., to try to get a baby down there for an adoptive home in Chicago? Do you remember that?

Mr. MARCUS. I have no personal knowledge of that.

Mr. MITLER. Isn't it a fact, after Mr. Manella made this arrangement with the trucker to try to get the child from the home in Mississippi, that you went to a hotel and spoke with this trucker?

Mr. MARCUS. I spoke to this trucker at the request of Mr. Manella who thought that he was getting a child for himself and this trucker would be able to do so.

Mr. MITLER. This was a heartbreaking endless chase in Mr. Manella's case, to see all these children go whizzing by and he never got any.

Mr. MARCUS. Is that a question? Is that a question, counsel?

Mr. MITLER. I asked a question.

Mr. MARCUS. I can't answer it.

Mr. MITLER. If the attorney is giving legal advice, that is one thing, but if he is telling you what to say, I believe the last answer was given to you by the attorney.

Mr. EHRLICH. That isn't true, at all.

Senator LANGER. The attorney has the right to talk to Mr. Marcus.

Mr. EHRLICH. Frankly, Senator, I don't understand some of these questions because they are in the form of statements made by the lawyer here, and I take it for granted that if I don't understand them, maybe my client doesn't, either.

Mr. MITLER. All right. You knew Mr. Manella. He wanted to receive a child for adoption. He was in your office quite often. You thought he was suitable adoptive parent. This investigation discloses—and you have discussed places where people have received children in New York and Chicago.

My question is this. If the fact is that really, the only purpose of having Mr. Manella there was to help him get a child or that was one of the main reasons, why, in the course of all these cases, didn't you let him have one of these children?

Mr. MARCUS. I think I answered that before, but if there is any doubt I will answer it again.

Mr. MITLER. There is in my mind.

Senator LANGER. Let him answer it.

Mr. MARCUS. First of all, Mr. Manella was not in my office for the primary purpose of obtaining the child. I represented this man constantly. As a matter of fact, as a lawyer, you will know what I mean when I say that some clients don't move without asking their attorney first. You know what I mean, as an attorney, or you should, if you have been in private practice.

He was one of those clients that valued my advice. He was in my office frequently. He was acting on his own and in his own behalf in trying to find a child suitable for himself.

When he finally found it, he found that it was stolen from him in Lakeland, Fla. He found a child that he wanted and, as I understand it, he had already paid the hospital bill when the mother of the child, before she even was far out of the anesthetic, had signed the consent before a notary public in Florida, and that was what perturbed Mr. Manella more than anything, because he had known of the family. It was a good Italian family and he wanted that child.

Mr. MITLER. Now, to go on to another case in which Mr. Manella was frustrated, were there twins born in Waukegan, Ill., recently, which Mr. Gordon—Emanuel Gordon, who is present—made some of the arrangements in which Mr. Manella made some of the arrangements, in which you knew the natural mother?

Mr. MARCUS. Yes, there were.

Mr. MITLER. Can I ask you one other question?

Mr. MARCUS. Yes. Shoot.

Mr. MITLER. Now, did this same natural mother also give birth to two other children that you helped make arrangements for?

Mr. MARCUS. She did.

Mr. MITLER. And wasn't Mr. Manella, through a car dealer in Chicago—the one that made the contact with this girl?

Mr. MARCUS. No, not to my knowledge.

Mr. MITLER. You know Marshal Freeman?

Mr. MARCUS. I know of him.

Mr. MITLER. Isn't it a fact that through Mr. Marshal Freeman, this girl was introduced to William Manella and in turn he introduced the girl to you?

Mr. MARCUS. I do not think so, counsel. It is quite a few years ago. I do not recall the circumstances under which he came to the office, but I do not think it was——

Mr. MITLER. But he knew the girl and knew of the children, is that right?

Mr. MARCUS. I don't know whether he did prior or subsequent to the time I did.

Mr. MITLER. I might report to you that I have interviewed her and she said that on her initial contact with Mr. Manella, he stated to her, that he knew of an attorney, Gale Marcus, who could help place her children. That is, the first two children.

Now, once again, Mr. Manella is up in Waukegan. He made the arrangements with the doctor and you say that all he was trying to do in all these cases was to get a child for himself.

Mr. MARCUS. In the case of Waukegan, and he was not attempting to obtain a child for himself.

Mr. MITLER. What was he doing?

Mr. MARCUS. The circumstances were as follows: Most lawyers who are in general practice usually have a client or two that is around the office quite a bit. I have asked him on occasions to run errands for me. I had never had a case in Waukegan, but I knew that the doctor that he had gotten his first child from was in Waukegan. I did not know him personally.

I was in the hospital for a period of 3 weeks at this time. I was unable to make any arrangements for a client. I told the client while I was in the hospital that I would have to arrange for someone else to handle it, that I could not do so. Mr. Manella was convenient. I asked him to go up there on my behalf and make the arrangements for this client, as a favor, that I might have asked any other client or any other person who knew a doctor in Waukegan.

Mr. MITLER. Did you ever have another client that had such extensive contact with unmarried mothers and babies who were being placed for adoption.

Mr. MARCUS. I don't think that calls for an answer.

Mr. MITLER. Well, you said—you spoke about clients. I simply asked you if you ever had another client who engaged in this same kind of activity.

Mr. MARCUS. I don't know what you mean by "same kind of activity." I help clients who refer other clients to me constantly, just as any other law office is accustomed to receive.

Mr. MITLER. Now, knowing his prison record, do you think he is a wholesome kind of person to deal with an unmarried mother?

Mr. MARCUS. When you say "deal with an unmarried mother," what do you mean?

Mr. MITLER. Well, I will spell it out. Do you believe, knowing his background, his record, do you believe that he is the kind of person that you, as an attorney, would want to speak with an unmarried mother, to carry her child, to advise and counsel?

Mr. MARCUS. Counsel, I can only answer to a point. I would be divulging certain client-attorney relationships beyond that. But let me tell you this:

I think we in America place too much emphasis sometimes on the background or the past of some people. I have been a defense attorney primarily for many years. I am one who believes that people who have made a mistake can reform. To my knowledge, this man has reformed and rehabilitated himself.

Mr. MITLER. So therefore, you think he is well qualified to deal—you think he is qualified to be a person in the adoption picture, knowing his background as a muscleman for the syndicate?

Mr. MARCUS. Well, Counsel, there are a lot of people who have high office today in many businesses, particularly in the labor field, that have been musclemen, but have lived down their reputations.

Mr. MITLER. But assuming that to be true, would you still say they are suitable people to deal with such a delicate and sensitive subject as child welfare and handling these placement matters?

Mr. MARCUS. He doesn't handle any placement matters, and I think he would be a good father, as proven by his present child, and that is the only way I consider this man. I consider him only in the light of a prospective adoptive parent who has a child 7 years old, who is given every advantage and opportunity and loving care, that any mother or father could humanly bestow upon a child, and he has a home that is religious. His home is such that it would certainly be better than one raised in the hands of the type of people you have had testify as natural mothers, who were, in the most part, juvenile delinquents themselves.

Mr. MITLER. In other words, your view of Mr. Manella is in conflict with that of the Scotland Yard department, special assignments squad, of the Chicago Police Department, that state that he is a muscleman for the syndicate?

Mr. MARCUS. Yes.

In the first place, Mr. Mitler, when you say "syndicate," I am only assuming that you mean a criminal syndicate. In Chicago, I do not believe that we have such a thing in existence today. We happen to have a very forceful, very forceful, industrious State's attorney.

Now, he may have at some time in the past been associated with an improper element, but at the present time he is not so associated.

Mr. MITLER. Would you clarify that?

Mr. MARCUS. To my knowledge.

Pardon.

Mr. MITLER. I have just one more question.

You understand, Mr. Marcus, that the amount of fee an attorney receives is not privileged?

Mr. MARCUS. Under certain circumstances it is not, no; but under certain circumstances it is. If you were to attempt to arrive at a breakdown of a complete transaction so as to find out by a devious route what you cannot determine by a direct route, it is then privileged.

Mr. MITLER. Did you lie to Joseph McGovern in the State's attorney's office?

Is there something humorous about that, Mr. Marcus?

Mr. MARCUS. It isn't a question.

Mr. MITLER. But still not being a question, is there something humorous about lying?



Senator LANGER. We are not going to have that kind of an exchange. What is the question?

Mr. MITLER. The question was—I will rephrase it.

When you were interviewed by Assistant State's Attorney McGovern, of Cook County, did you lie to him about the amount of money you had received in the transaction?

Mr. MARCUS. Do you think that is a fair question, Senator?

Senator LANGER. Well, answer it. Did you or didn't you?

Mr. MARCUS. No; I did not lie to him.

Mr. MITLER. You told him the complete truth?

Mr. MARCUS. I told him the truth.

Mr. MITLER. Complete truth?

Mr. MARCUS. Yes. I believe I did.

Mr. MITLER. Thank you.

No further questions.

Senator LANGER. Any questions?

(No response.)

Senator LANGER. Thank you very much.

Mr. MARCUS. Senator, if I may, I would like to make a statement, if I may have a few moments.

Senator LANGER. Well, if you want to wait and make it a little later, but there are some other witnesses ahead of you. I think, in simple justice to those who want to catch a plane, then if you want to make a statement I will be glad to have you make it.

How many witnesses are there? Are these four going to testify?

Mr. MITLER. No. Just Dr. Eliot.

Dr. Eliot, I am very happy that you came here from the Children's Bureau, and I believe you have a statement you want to give in connection with the pending bill.

#### **STATEMENT OF MARTHA ELIOT, M. D., CHIEF, CHILDREN'S BUREAU, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Dr. ELIOT. Thank you very much. My name is Martha M. Eliot, and I am Chief of the Children's Bureau of the Department of Health, Education, and Welfare.

I welcome this opportunity to appear before you to present the views of the Department concerning bill S. 3021, relating to the placement of minor children for permanent free care or for adoption.

I wish to introduce at this time, Miss Mildred Arnold, Director of the Division of Social Services of the Children's Bureau, who is here with me to discuss technical matters in relation to adoption services and any other questions you may wish to ask her.

Also, in case there are questions that involve legal opinion, Mr. Theodore Ellenbogen and Mr. Joseph Meyers, of the General Counsel of the Department are here to handle such questions.

At the outset, I want to thank this committee for your efforts to stimulate greater protection for children involved in interstate placement for adoption. The committee has done much to focus public attention on the plight of children involved in the black market in babies.

For many years, the Children's Bureau has been concerned with the protection of children in adoptive placements. Through its studies, by developing standards of service and care, in giving con-

sultation to public and voluntary agencies, and through grants for child welfare and child health services, the Bureau has tried to help the States develop better services and safeguards for these children.

In 1953, the Bureau decided to give particular attention to the black market in babies. Reports flowing into the Bureau from the States, and inquiries from a wide variety of people and agencies had showed the mounting seriousness of the problem, which has medical and social, as well as legal aspects.

The Bureau undertook to plan for enlisting the cooperation of various groups in strengthening services to unmarried mothers and in gathering information concerning the black market in babies. A full-time social worker was employed for this purpose in October 1954.

In June 1955, the Bureau called a conference in Washington on "protecting children in adoption" and invited representatives from 42 national agencies and organizations, both public and voluntary, including representatives of the social work, medical, and legal professions.

The participants in this conference brought out that adoption is a social institution, one in which society is deeply concerned. It is not a private contractual matter. Social institutions must therefore come into the picture and adoption should take place through some form of social agency.

The participants in this conference brought out again and again that this problem we are talking about today is too much for any one person or any one profession to handle, even if only a single baby is involved, and since this is too much for one person, no individual has the necessary resources and skills that are necessary to do the job.

The conference also gave unanimous approval to the philosophy that no placement for individual profit should be made, although it recognized that reasonable fees for professional services, that is, professional services related to a particular profession, might be appropriate.

Throughout 1955 and 1956, the Bureau continued to emphasize protecting children in adoption, including those sold in the black market, and the Bureau is continuing its efforts to stimulate, as requested, to assist States in providing the help needed by unmarried mothers for themselves and their babies.

Since the time, I believe, is limited this afternoon, I would like to ask for inclusion in the record, a few additional pages of my testimony and come to some comments on the bill itself.

With your permission, I would like to ask to have pages 3, 4, and 5 and 6, of this statement included in the record.

Senator LANGER. They will be inserted. Thank you very much.

Dr. ELIOT. Next, I would like, however, to speak briefly about the bill itself, and in general terms on the provisions of the bill.

This bill has two objectives: (1) To stop the nefarious practice of the black market in babies; and (2) to encourage greater protection of children, their parents, and prospective adoptive parents who are involved in placements for adoption or permanent free care under circumstances resulting in or requiring that the child be transported in interstate commerce.

The Department is in full accord with these objectives.

However, adoption, licensing of child-caring agencies, and regulation of the placement of children have traditionally been considered

matters for which the States have responsibility. The question is whether and to what extent the Federal Government should enter into this field.

The States have been making steady progress in establishing more adequate safeguards in State laws for the protection of children involved in placement or adoption. Nevertheless, State laws in general are still inadequate and there is wide variation among them. We have been working with the States, through providing technical consultation and guides for State child welfare legislation as the States have requested them, to assist them in developing better laws. Hopefully, if there were more uniformity of good State laws in this field, possibly supplemented by interstate compacts, many of the problems existing today could be alleviated or eliminated.

If the committee should decide that Federal legislation is necessary, it may wish to consider whether such legislation should establish standards without relation to State standards and laws, as this bill would do. Or, in support of State policy, should the bill merely prohibit interstate placements which are in contravention of the law of the State in which a child or the person having legal custody of the child is living or found, or the State in which the prospective foster or adoptive parent resides or is domiciled?

Another possibility for Federal legislation which might or might not be coupled with the one just mentioned, would be to prohibit interstate placement of children for gain or profit, which is the major objective of the second part of this bill. A bill narrowed to prohibit the black market in babies would certainly strike at the worst evils which now exist and would not raise as many difficult questions of policy as the present bill.

In the event that the committee should decide on the approach set forth in this bill, I should like to make the following comments.

We understand that the provisions of the bill are not intended to penalize either the natural parents or the adoptive or foster parents involved in placements covered by this bill. I know that the question has been raised, however, as to whether the bill is entirely clear on this point, and I understand this has been discussed already today.

Section 1180 prohibits anyone, except the natural mother, from placing, or assisting in placing, any child in any home other than the home of a relative within the third degree, under circumstances requiring or resulting in the child being transported in interstate commerce, unless certain protective requirements are met.

Briefly, these requirements are that—

I would like to ask that page 9 of my testimony be included also in the record, since I am just summarizing the contents of the bill at this point.

Senator LANGER. It will be included.

Dr. ELIOT. I would like to add, however, that although the word "or" is omitted from the language of the bill, and I assume that is an error—

Mr. MITLER. Thank you very much. Some of those points have been cleared up.

Dr. ELIOT. We question why the study of the home is to be made by the State in which the foster or adopting parents "are domiciled or reside immediately after said placement." It would appear to that the



child would be better protected if the investigation were made in the State in which the prospective parents had been domiciled or resided immediatly before the placement. A more adequate study could be made in the community where the family had been living for a period of time and were known.

We note that paragraph (3) of section 1180 (a) provides only for "licensed" agencies and does not include "authorized" agencies as in paragraphs (1) and (2), and we would recommend that the provisions of paragraph (3) be modified to permit "public or private agencies licensed or authorized to place children" to make investigations.

We assume also that the word "and" immediately following the third requirement should be "or".

If as contemplated by the bill direct placement of the child by the mother is to be excluded from the provisions of this bill, we believe some modification of this section is necessary so that if the natural mother seeks guidance from such "third persons" as her own parents or her spiritual adviser, neither she nor they will be penalized for this.

We note that section 1181 (a) imposes criminal sanctions on whoever "solicits, collects, or receives any money or any other thing of value" for "placing, or arranging for, or assisting in arranging for" the placement of a child included within the provisions of this bill. As this paragraph is written, could it not be interpreted that lawyers or doctors would be subject to a fine or imprisonment for payments received in carrying out their appropriate responsibilities in relation to placements made by the mother or by an agency? For example, if an agency placed a child for adoption and the adoptive parents arranged with their own attorney for the necessary legal services, would not this attorney be subject to a fine for payment made to him by the adoptive parents for his services?

We also note that, while captioned "Coercion or Enticement of Parent," section 1182 would make it a felony to "persuade, induce, coerce, or arrange for" the interstate travel of a parent to place the child for permanent free care or adoption, when the placement is or will be made in return for money or anything of value, even when the person involved in the arrangements for transfer will not receive any payment and may well be an innocent participant. We have some doubt that it was really intended to apply this prohibition to all the persons who could be brought within the broad range of section 1182.

We note that section 1183 applies to transportation within Territories. It seems to us that the Territories are competent to regulate this matter by their own legislation and the provisions for transportation within, we believe, should be deleted from this bill.

Section 1183 (c) defines the term "permanent free care" to exclude placement with a relative of the child. On the other hand, section 1180 (a) seems to indicate an intent to exclude from the bill a placement with a relative only if the relative is one within the third degree. We think the intent needs clarification.

We believe that the committee may wish to obtain the views of the Council of State Governments concerning S. 3021. We have been in touch with them and find that they are interested in this bill. We believe they might have suggestions which would be helpful in dealing with the difficult problems which S. 3021 is attempting to meet.



I want to stress that S. 3021 recognizes the seriousness of the problem of dealing with intermediaries, other than authorized child-placing agencies, who accept infants from parents and, for a price, place them with families wishing to adopt them. The activities of such intermediaries are not consistent with the principles and procedures of child placement that have been developed over the years for the protection of the child, his natural parents, and the prospective foster parents. I am sure we all agree that the sale of babies cannot and should not be condoned.

In conclusion, the Department is in accord with the general objectives of the bill, but questions whether it should not be narrowed to give greater recognition to State laws or to apply only to interstate adoptions for profit, and, in any event, we believe the bill needs clarification in several important respects.

(The entire statement of Dr. Eliot is as follows:)

STATEMENT OF MARTHA M. ELIOT, M. D., CHIEF OF THE CHILDREN'S BUREAU,  
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. Chairman and members of the committee, my name is Martha M. Eliot and I am Chief of the Children's Bureau in the Department of Health, Education, and Welfare. I welcome the opportunity to appear before you to present the views of the Department concerning S. 3021, relating to placing of minor children for permanent free care or for adoption. I also wish to introduce Miss Mildred Arnold, Director of the Division of Social Services of the Children's Bureau, who is here to discuss technical matters in relation to adoption services and any other questions you may wish to ask her.

At the outset, I want to thank this committee for your efforts to stimulate greater protection for children involved in interstate placement for adoption. The committee has done much to focus public attention on the plight of children involved in the black market in babies.

For many years, the Children's Bureau has been concerned with the protection of children in adoptive placements. Through its studies, by developing standards of service and care, in giving consultation to public and voluntary agencies, and through grants for child welfare and child health services, the Bureau has tried to help the States develop better services and safeguards for these children.

In 1953, the Bureau decided to give special attention to the black market in babies. Reports flowing into the Bureau from the States and inquiries from a wide variety of people and agencies had showed the mounting seriousness of the problem. The Bureau undertook to plan for enlisting the cooperation of various groups in strengthening services to unmarried mothers and in gathering information concerning the black market in babies. A full-time social worker was employed for this purpose, beginning October 1, 1954.

On June 27 and 28, 1955, the Bureau called a conference in Washington on protecting children in adoptions and invited representatives of 42 national agencies and organizations, including representatives of the social work, medical, and legal professions.

The participants in this conference brought out that adoption is a social institution. It is not a private contractual matter. Social institutions must therefore come into the picture and adoption should take place through some form of social agency.

The participants brought out again and again that this problem we are talking about today is too much for any one person or any one profession to handle, even for one baby, that no individual has the necessary resources and skills that are necessary to do the job.

The conference also gave unanimous approval to the philosophy that no placement for individual profit should be made, although it recognized that reasonable fees for professional services, that is, professional services related to a particular profession, might be appropriate.

Throughout the remainder of 1955 and 1956, the Bureau has emphasized protecting children in adoption, including those sold in the black market, and the Bureau is continuing its efforts to stimulate and assist States in providing the help needed by unmarried mothers for themselves and their babies.

## SIZE AND NATURE OF THE PROBLEM

What is the size of the problem facing us today? We recognize that, although many children of married parents are adopted by relatives or others, the problem centers particularly and largely around the unmarried mothers and their infants.

Approximately 176,000 children were born to unmarried mothers in the United States in 1954. Of this number 37,500 were born to girls under 18 years of age. These girls are little more than children themselves and need protection and help in planning for their own future as well as the future of their children. Of the children placed for adoption with nonrelated persons during the same year, 21,000 were placed without any prior knowledge by a social agency as to the suitability of the home. Because of the nature of the problem we do not know how many children have been placed in interstate commerce.

We do know, however, that some girls have been coerced into giving up their babies merely to supply more children for the black market in babies. Later some of these girls return to reclaim their babies from the people who have given them homes, causing unhappiness and confusion for themselves, the child, and the adopting parents. We know of unmarried mothers who have entered hospitals for confinement under the name of the prospective adopting mother and as a result the child is unprotected even as to his identity and legal status. I am sure that, through the information brought out in your hearings on this problem, this committee could multiply many times these illustrations of the heartbreak and tragedies in the aftermath of this problem.

As a result of its studies and work with communities and States the Bureau is firm in its belief that the basis of protection of babies in adoption lies in protection and services to the mothers. The best way to help a child is to get to his mother as early as possible.

Social services are needed to help the mother reach a decision as to whether she should keep or give up her child. This decision should be reached as quickly as possible to save the child from the harm that may be done if he is placed in one foster home after another and to enable the child to have a permanent home as soon as possible.

When the child is to be placed for adoption, social services are needed to study adoptive homes, select a home for the child and to help to see that the placement is working well for the child before the final adoption decree is granted.

Good medical care is needed for every mother and child and this is one of the most serious problems involved in the protection of these babies. Many girls seek help first from a doctor, often in a strange city. Doctors therefore have an important role in providing medical care, arranging for hospital care, as well as in referring the girl to a social agency for help.

Proper relinquishment of a child by his parents for adoption is necessary. The help of the legal profession and the courts is essential in accomplishing these as well as in seeing that the provisions of the adoption law are properly met.

## ADDITIONAL RESOURCES NEEDED

Many communities are inadequately provided with agencies equipped with workers trained to give social services to the unmarried mother so that she may not be forced to give up her child. Additional resources are also needed to provide more adequate medical care and legal services. Funds for offering all such assistance have been limited, particularly for the nonresident unmarried mother. Since most girls go to urban communities for the sake of anonymity, additional funds are needed in cities as well as in rural areas.

Recognizing the important role of child-welfare services in helping unmarried mothers and their babies as well as other children and their families needing these services, the administration submitted to Congress earlier this year a legislative proposal to amend the child-welfare provisions of title V of the Social Security Act. In his state of the Union message in 1956, the President of the United States stated that needs in the area of social welfare include increased child-welfare services, and in his budget message this year, he stated that he was recommending increased appropriations to expand grants to States for child-welfare services.

Secretary Folsom, in his letter transmitting to the Congress the administration's draft bill incorporating the President's recommendations with respect

to increased child-welfare services, said: "There is great need for increasing child-welfare services so that more of the children who need these social services may be able to receive them. Among these children are \* \* \* children in need of permanent placement or adoption." In this same letter, Secretary Folsom also pointed out that in many communities the inadequacy of foster care and service is a major factor contributing to the black market in babies, i. e., the practice of placing babies for adoption at a profit.

This proposal, which is now before both the Senate and the House (S. 3297, H. R. 10283 and H. R. 10284) would accomplish the following purposes which are specifically related to expanding and improving services for unmarried mothers and their babies: (1) Provide increases in the authorization for annual grants to the States for child-welfare services from the present \$10 million to \$12 million in 1958, and \$15 million in 1959 and each year thereafter; (2) remove present requirements that Federal child-welfare funds for local child-welfare services may be used only in predominantly rural areas and permit their use in any part of a State where the money will be effective in establishing, extending, and strengthening child-welfare services, although emphasis would still be placed on services in rural areas; and (3) explicitly authorize the use of Federal child-welfare grants to pay for the foster care of children.

The Department of Health, Education, and welfare believes that the enactment of this proposal would enable the States to move forward more rapidly and more effectively in developing better services for unmarried mothers than would the child-welfare provisions of the present law. The extension of child-welfare services in the States is essential if the States are to carry out the intent of S. 3021 in providing more protection for children involved in interstate placements.

#### COMMENTS ON S. 3021

Next, I want to speak briefly and in general terms on the provisions of S. 3021.

This bill has two objectives: (1) to stop the nefarious practice of the black market in babies; and (2) to encourage greater protection of children, their parents, and prospective adoptive parents who are involved in placements for adoption or permanent free care under circumstances resulting in or requiring that the child be transported in interstate commerce.

The Department is in full accord with these objectives.

However, adoption, licensing of child-caring agencies, and regulation of the placement of children have traditionally been considered matters for which the States have responsibility. The question is whether and to what extent the Federal Government should enter into this field.

The States have been making steady progress in establishing more adequate safeguards in State laws for the protection of children involved in placement or adoption. Nevertheless, State laws in general are still inadequate and there is wide variation among them. We have been working with the States, through providing technical consultation and guides for State child welfare legislation, to assist them in developing better laws. Hopefully, if there were more uniformity of good State laws in this field, possibly supplemented by interstate compacts, many of the problems existing today could be alleviated or eliminated.

If the committee should decide that Federal legislation is necessary, it may wish to consider whether such legislation should establish standards without relation to State standards and laws, as this bill would do. Or, in support of State policy, should the bill merely prohibit interstate placements which are in contravention of the law of the State in which a child or the person having legal custody of the child is living or found, or the State in which the prospective foster or adoptive parent resides or is domiciled?

Another possibility for Federal legislation which might or might not be coupled with the one just mentioned, would be to prohibit interstate placement of children for gain or profit, which is the major objective of the second part of this bill. A bill narrowed to prohibit the black market in babies would certainly strike at the worst evils which now exist and would not raise as many difficult questions of policy as the present bill.

In the event that the committee should decide on the approach set forth in this bill, I should like to make the following comments.

We understand that the provisions of the bill are not intended to penalize either the natural parents or the adoptive or foster parents involved in placements covered by this bill. Question has been raised, however, as to whether the bill is entirely clear on this point.



*Section 1180*

Section 1180 prohibits anyone, except the natural mother, from placing, or assisting in placing any child in any home other than the home of a relative within the third degree, under circumstances requiring or resulting in the child being transported in interstate commerce, unless certain protective requirements are met.

Briefly, these requirements are that—

1. The public department responsible for child welfare activities in the State in which the prospective foster or adopting parents are domiciled or reside immediately after the placement has given prior approval to the placement, after an investigation of the circumstances surrounding the placement has been made by the public department or any licensed or authorized child-care agency selected by that department; or

2. The placement is made by a child-care or adoption agency licensed or authorized to place children for adoption or permanent free care; or

3. The placement is made after receipt by the foster or adoptive parents of a statement in writing from a public or private child-care or adoption agency, licensed to place or care for children, concerning its investigation of the placement—when the public department responsible for child welfare activities in the State has no statutory obligation to supervise, control, or regulate the importation of children.

Although the word “or” is omitted in the bill after the second requirement referred to above (sec. 1180 (a) (2), p. 3, line 5 of the bill), we assume this was an oversight and that the intent of the bill was to provide for these three alternatives.

We question why the study of the home is to be made by the State in which the foster or adopting parents “are domiciled or reside immediately after said placement” (p. 2, lines 15 and 16, and p. 3, lines 16 and 17). It would appear to us that the child would be better protected if the investigation were made in the State in which the prospective parents had been domiciled or resided immediately before the placement. A more adequate study could be made in the community where the family had been living for a period of time and were known.

We note that paragraph (3) of section 1180 (a) provides only for licensed agencies and does not include authorized agencies as in paragraphs (1) and (2). We recommend that the provisions of paragraph (3) be modified to permit “public or private agencies licensed or authorized to place children” to make investigations.

We assume that the word “and” immediately following the third requirement (p. 3, line 19 of the bill) should be “or.”

If, as contemplated by the bill (sec. 1180 (a) (4), p. 3, lines 20–24), direct placement of the child by the mother is to be excluded from the provisions of this bill, we believe some modification of this section is necessary so that if the natural mother seeks guidance from such “third persons” as her own parents or her spiritual adviser, neither she nor they will be penalized for this.

*Section 1181*

We note that section 1181 (a) imposes criminal sanctions on whoever “solicits, collects, or receives any money or any other thing of value” for “placing, or arranging for, or assisting in arranging for” the placement of a child included within the provisions of this bill. As this paragraph is written, could it not be interpreted that lawyers or doctors would be subject to a fine or imprisonment for payments received in carrying out their appropriate responsibilities in relation to placements made by the mother or by an agency? For example, if an agency placed a child for adoption and the adoptive parents arranged with their own attorney for the necessary legal services, would not this attorney be subject to a fine for payment made to him by the adoptive parents for his services?

*Section 1182*

We note that, while captioned “Coercion or enticement of parent”, section 1182 would make it a felony to “persuade, induce, coerce, or arrange for” the interstate travel of a parent to place the child for permanent free care or adoption, when the placement is or will be made in return for money or anything of value, even when the person involved in the arrangements for transfer will not receive any payment. We have some doubt that it was really intended



to apply this prohibition to all the persons who could be brought within the broad range of section 1182.

*Section 1183*

We note that section 1183 applied to transportation within Territories. It seems to us that the Territories are competent to regulate this matter by their own legislation and the provisions for transportation within should be deleted from this bill.

Section 1183 (c) defines the term "permanent free care" to exclude placement with a relative of the child. On the other hand, section 1180 (a) seems to indicate an intent to exclude from the bill a placement with a relative only if the relative is one within the third degree. We think the intent needs clarification.

We believe that the committee may wish to obtain the views of the Council of State Governments concerning S. 3021. We have been in touch with them and find that they are interested in this bill. We believe they might have suggestions which would be helpful in dealing with the difficult problems which S. 3021 is attempting to meet.

I want to stress that S. 3021 recognizes the seriousness of the problem of dealing with intermediaries, other than authorized child-placing agencies, who accept infants from parents and, for a price, place them with families wishing to adopt them. The activities of such intermediaries are not consistent with the principles and procedures of child placement that have been developed over the years for the protection of the child, his natural parents, and the prospective foster parents. I am sure we all agree that the sale of babies cannot and should not be condoned.

In conclusion, the Department is in accord with the general objectives of the bill, but questions whether it should not be narrowed to give greater recognition to State laws or to apply only to interstate adoptions for profit, and, in any event, we believe the bill needs clarification in several important respects.

Mr. MITLER. Thank you, Dr. Eliot. I know Miss Arnold, who is head of your social service department, is with you. I want to say that our subcommittee has worked very closely with your Bureau and Miss Arnold and her staff, and it has really been a joint effort of the two groups that has resulted in some of the affirmative things that have happened.

Dr. ELIOT. May I say we have been very happy to give whatever help we have given, or to give other help in the future.

Mr. MITLER. Thank you very much.

I want to get the witnesses together for the District of Columbia. Could I have the police lady, and maybe, Mr. King, you could come back here.

Senator LANGER. Do you solemnly swear that the testimony that you are about to give in the pending matter will be the truth, the whole truth, and nothing but the truth, so help you God?

Unidentified WITNESS. I do.

Mr. KING. I do.

Mr. SHEA. I do.

Miss MORSS. I do.

Mr. WHITE. I do.

TESTIMONY OF AN UNIDENTIFIED POLICEWOMAN, ATTACHED TO THE WOMEN'S BUREAU OF THE METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA (WHOSE NAME IS IN THE SUBCOMMITTEE FILES AND WHO HEREAFTER IS REFERRED TO AS "THE WITNESS"); ACCOMPANIED BY CLARK F. KING, ASSISTANT CORPORATION COUNSEL IN CHARGE OF LAW ENFORCEMENT DIVISION, FOR THE DISTRICT OF COLUMBIA; GERARD M. SHEA, DIRECTOR, DEPARTMENT OF PUBLIC WELFARE, WASHINGTON, D. C.; MISS A. PATRICIA MORSS, WELFARE CONSULTANT, WASHINGTON, D. C.; AND WELDON WHITE, ASSISTANT CORPORATION COUNSEL, DISTRICT OF COLUMBIA

Mr. MITLER. The first witness—we have her name on file with the subcommittee, and due to the fact that she has been used by the District Police doing undercover work, I don't want to reveal it publicly. That is our understanding with the District Police Department.

Senator LANGER. She will not be photographed, either.

Mr. MITLER. That is also the understanding, that she will not be photographed.

You are a policewoman, and assigned to the Women's Bureau of the District of Columbia?

The WITNESS. That is correct.

Mr. MITLER. Now, it is understood that you are not going to mention the names of the people you visited, and the purpose of your testimony is merely to illustrate a situation; is that correct?

The WITNESS. That is correct.

Mr. MITLER. And that the situation described does not represent the venal aspect of the so-called interstate baby racket but highlights some practices that need some upgrading and improving; is that correct?

The WITNESS. That is correct.

Mr. MITLER. Now, on May 10, 1955, pursuant to arrangements between our subcommittee and your department, did you go out to make a so-called undisclosed visit to a person or group of people involved in placing people, both locally and interstate?

The WITNESS. I made such a visit.

Mr. MITLER. Now, of course, because we are using this as an illustration, we will be certain not to use the names, but after being briefed by myself and people in your Department, and Public Welfare Department, on May 10, 1955, where did you first go?

The WITNESS. I first went to a hospital with which a certain doctor was associated, and I advised them that I came from New York and gave them a false name and told them I wanted to adopt a baby.

They told me that they had discontinued the practice of adopting babies, or introducing parents to the natural mothers at the hospital because the District authorities had clamped down on them, and I didn't get very much satisfaction at the hospital.

I went to the doctor's office, and there I saw the doctor in person. I went in his private office, alone with him, and I told him that I came to him as a last resort, that I had been turned down by all the welfare agencies, and I couldn't get a baby, and I heard through the grapevine that he would be able to help me.

He asked me my name and my religion, and that is all. He asked no other information about my background, and I told him that. He then took me into another office where his secretary—or a woman who appeared to be his secretary—worked. She entered my name, address, and telephone number on a ledger, and this ledger had about 30 names on it, and they started discussing adoption of babies.

The doctor said he had placed about 3 babies within that past week, and he led me to believe that I would be able to get 1 very shortly. He said if he had one available at that time, I would have been able to take it home with me. He didn't ask me—he didn't ask any fee, but he led me to believe, or he said it was understood that I would be responsible for the finances of the delivery of the baby, or whatever the natural mother needed. He himself didn't receive any financial gain.

MR. MITLER. Was there a conversation with another person in which you stated that you had been convicted of a crime?

THE WITNESS. Yes. At the time I said that I felt the welfare agencies had turned me down because I had been convicted of larceny, and both the doctor and this lady secretary said that that shouldn't enter into it at all, that they disregarded that, and I said I would be able to get a baby.

MR. MITLER. Does that represent the highlights of your visit to the doctor?

THE WITNESS. Yes, sir.

MR. MITLER. Now, without going into all the details, there came a time when the doctor was dissatisfied with your identification: that was the end of that episode. Is that correct?

THE WITNESS. Yes.

MR. MITLER. Now, since that time have you made an investigation of the activity of that doctor?

THE WITNESS. We have been continuing investigation on him, and we know he is still practicing the same—

MR. MITLER. Well, I think we might highlight that. He does place children, on an interstate level, in different parts of the country?

THE WITNESS. Yes, he does. We know that he has placed them in North Dakota, Michigan, and at least five in New Jersey, and some in New York.

MR. MITLER. Well, would you just state very briefly the method that he uses to circumvent the District baby brokerage law?

THE WITNESS. At first, he used to place a call to the prospective parents, a long-distance call, and bring the telephone to the bed of the natural mother and she would talk to these prospective parents and make arrangements for the transfer of the baby and the payment of the bills.

Now, recently, he has changed his method, that he introduces the parents and the natural mother outside of the District line. He goes into Maryland or in Virginia. He told me that—I went on with this a little more than I said, and he was making arrangements for me to meet this woman in Coral Hills, Md., and go before a notary public to sign papers.

MR. CHUMERIS. Would you repeat those States again, that you mentioned?

The WITNESS. North Dakota, Michigan, New Jersey, and New York, that I know of.

Mr. MITLER. Now, as a result of your investigation, you have become familiar with the adoption problem, I know that.

Now, what is wrong with his doing this? Why couldn't he place children with people out in North Dakota? What is the defect?

The WITNESS. Well, he doesn't know these people. He didn't know anything about my background, and he was willing to place a baby with me. He didn't know my husband's name, and at no time did he say my husband would have to come here to the District for an interview.

In view of the fact that I had said that I had been convicted in court, I don't know that he was a good judge of prospective parents.

Mr. MITLER. In other words, he knew very little of anything of these out-of-State people even though apparently he was not motivated by profits.

The WITNESS. Apparently not.

Mr. MITLER. Was there an incident, can you tell us briefly that came to your attention where a mother was put under some duress in paying a hospital bill?

The WITNESS. It has come to my knowledge, information about a young lady that was under his care and was unable to pay her bills, and he gave her—he and this secretary—gave her an alternative to either pay the bill or give up the baby, and she tried to make arrangements, financial arrangements, to pay the bill, was unable to, and did finally sign over the baby to be sent out for adoption.

Mr. MITLER. Do you have any idea about the volume of his activity?

The WITNESS. They didn't speak of any in numbers, but from the way they talked, it was a very common occurrence.

Mr. MITLER. How long was the list that you saw at the bottom of the telephone directory of his prospective parents?

The WITNESS. At least 30 names; one of the large ledgers, and I was down on the very last line.

Mr. MITLER. I have no further questions.

Mr. King.

Mr. King, what is your position and what is your full name?

Mr. KING. Clark F. King, Assistant Corporation Counsel in charge of Law Enforcement Division for the District of Columbia.

Mr. MITLER. Now, you have had experience with the baby-broker law in the District of Columbia?

Mr. KING. Yes.

Mr. MITLER. In a word, what does that law provide?

Mr. KING. Our law prohibits anyone from aiding or assisting in the placing of any children without first being licensed to do so, unless, of course, the child is placed by the mother or is placed by some person within the third degree of consanguinity.

Mr. MITLER. Referring to the case the policewoman just discussed, you are familiar with the matter—we are not going to mention the name.

Mr. KING. I am very familiar with it. As a matter of fact, it is a big problem with me. I have been trying for, well, I think I should say for a number of years, to catch him and it is just impossible up to this point to be able to do anything from the standpoint of prosecution because he has always been shrewd enough to have the persons



from outside the District of Columbia and, of course, naturally we are unable to get them to appear as witnesses, and the result is that we are just unable to make a case that would stand up in court.

As the prosecutor for Cook County stated, first of all, the natural mother is a reluctant witness unless she wants the child back, and the only case we have had a conviction on in the District of Columbia, which had to go to our court of appeals, is the one case where the natural mother did thereafter change her mind and did go to the trouble of doing all she could to get the child back.

But unless you have some help in that respect, it is just about impossible to get these people.

MR. MITLER. Well, you are referring to the problem, the fact that the witnesses are out of the District and you just can't get to them.

MR. KING. The District is only 10 miles square and a great many of this particular doctor's patients; that is, these natural mothers, unmarried young girls, frequently live in adjoining counties of Montgomery, Prince Georges in Maryland, Arlington, Fairfax Counties, and the city of Alexandria, Va., and it is very simple for a man who operates in the District. He has only got that short distance to operate. They come across the line, come to his hospital, have the child, and he in turn has been keeping this list over a period of years. He promised to surrender the list to me. He never has. He has no intention to, I am sure of that.

I have asked him, would he please get himself licensed. He won't do that. So, it is a position that we are in that it is just about impossible to do anything with him. Yet, we know he is doing it but you only get one end of the picture all the time. We cannot get the two ends together.

MR. MITLER. In other words, you feel the activity is one that, interstate or in and out, there has to be some kind of Federal control.

MR. KING. I don't see how you can do anything about it unless it is of a Federal nature.

MR. MITLER. You remember the case of the *People v. Reva Walker*?

MR. KING. Yes.

MR. MITLER. She was the girl with a pretty sordid background.

MR. KING. I saw in the paper last night where she had gotten 2 years out in Maryland.

MR. MITLER. She was in the baby-brokerage business here.

MR. KING. She and the gentleman who worked with her named—of course, he had quite a few aliases—Lawrence.

MR. MITLER. He had a criminal record in the District.

MR. KING. That is correct.

MR. MITLER. The child went from the District to New York City.

MR. KING. That is correct.

MR. MITLER. And I think I might mention to you that a woman who testified before this committee, Ruby Sutera, in Florida, played a role—Ruby was the one who initiated this from Miami, Fla. The people started in New York, phoned Ruby in Florida, and were referred to Reva Walker here in the District.

MR. KING. I remember that. As a matter of fact, my first contact with you, I believe, had to do with this case because you, at that time, were with the New York authorities.

MR. MITLER. Is there anything else you care to state?

Mr. KING. Nothing except, as I say, I am satisfied that this problem just cannot be whipped unless it is handled on the national level.

Mr. MITLER. Thank you, Mr. King.

Mr. Shea and Miss Morss and another gentleman representing the District Department of Public Welfare.

Mr. WHITE. I am representing the Corporation Counsel's Office.

Mr. MITLER. Mr. Shea and Miss Morss, I was going to suggest if you have a statement perhaps that could be incorporated in the record, and you might highlight some of the things.

Mr. SHEA. May I—

Mr. MITLER. First, will you please introduce yourself.

Mr. SHEA. I am Gerard Shea, Director of Public Welfare in the District of Columbia. And with me is Miss A. Patricia Morss, consultant in the Department of Welfare, and Mr. Weldon White, Assistant Corporation Counsel in the District of Columbia.

Mr. MITLER. And in this problem, you are speaking on behalf of the District?

Mr. SHEA. Yes; speaking for the Department of Public Welfare. I understand the Commissioners have not as yet taken a position on this particular bill, not that they would not take a position, but they have not been formally requested to do so.

I might say briefly, I have a very detailed statement I would like submitted in the record. I am here just to support, in principle, the legislation. We have a few technical changes which are included in this particular statement of mine, which I think you might review, but there are two I would like to bring to the attention of the committee, and that is on page 2 of the bill, section 1180; in talking with Mr. White, he has questioned whether the word "domiciled" should be included in the bill in this particular section or any other section. He also feels the statement in section 1180, which states: "\* \* \* or resided immediately after such placement" could be changed to something like: "\* \* \* or resided at the time placement is sought," or words to that effect, and we are anxious to have in there: "\* \* \* to be deemed to include the District of Columbia."

Those three statements are not included in my statement, but I think it would be appropriate if the committee would consider them in revising this legislation.

I would like to ask Miss Morss if it would be all right, for the committee, to just make a comment about the bill.

Mr. MITLER. You are the adoption consultant for the District of Columbia?

Miss MORSS. I am the welfare consultant in Mr. Shea's office, including supervision of the licensing of the agencies that take children.

Mr. MITLER. I know you have worked with this committee in these matters all through this investigation.

Miss MORSS. I think my statement also will give in more detail the character of the problem. We do have probably more white infants being adopted, born in the District of Columbia, and being adopted by persons in other States than there are white infants born and adopted in the District of Columbia, and, for the reasons that Mr. King has pointed out, it has been impossible where there have been violations of our District law to bring the parties to prosecution because, one, if not several, of the principals involved live in Silver Spring, Md., Arling-

ton, Va., and there is no way of bringing them here unless they want to come voluntarily.

Perhaps I could direct my comments to the provisions of the bill in 1180, which provide for social study before placement. I feel very strongly about this.

If we do not get the facts at the time when a child is separated from its own people, it is very hard to get them later when that child comes into another jurisdiction.

Perhaps I can illustrate it with reference to an investigation we made for the District Court a few years ago. The adopters had obtained the child from an intermediary in Pennsylvania. They brought it into the District of Columbia. That is no violation of law because we have no importation law which requires any study or review when the child is brought in.

However, the investigation for the court did not occur until almost 9 months after the child had been in the home. These were the circumstances that were developed in the investigation:

The parents had conceived before marriage. They were young people, and in an effort to conceal the fact from their parents, they had taken up residence in a hotel in a nearby city of an adjoining State to Pennsylvania. The mother returned immediately after hospital confinement to the hotel where they had gone to live, and was visited that night by the doctor who brought consent forms, preparatory to transferring the child for adoption.

The baby was taken by the intermediary to Pennsylvania and given there in the home of a nurse to the adopters from Washington, which had been arranged. The Department was unable to find the family 9 months later, or get service from the authorities in Pennsylvania in following up the intermediary.

The court left the case open much longer than the 90 days required for investigation, and then issued a final decree.

It was less than a week later that the parents, with counsel, visited the agency, having learned after repeated pressures on the intermediary, that the child was somewhere in Washington.

This young couple was deeply saddened by what they had done and told the story of having sought, almost from the beginning of separation from the child, to find it. From all we could determine, these people, with more time and with the moral backing given by both families with whom they later shared their problems, could have raised their own child. The adopters, in contrast, were older people.

The adopting father was a heart invalid at the time of the proceedings, who has since died.

There is only one other comment I would like to add, and that is with reference to the methods used by intermediaries.

Frequently, in order to give assurance to the mother that no one will know about her problem, they arrange it in a way so that identity of the child is lost.

Now, in my years with the public agency, I have come to know some of these children who were subsequently removed by the court from the homes in which they had been placed because of neglect, who have been extremely disturbed because they do not know who they are. Apparently there is a psychological craving in all of us for identification of self.



Fortunately, for most of us, that is not a problem because we know and have the assurance and faith foundation of relationships with our own family.

But for these children, particularly at the time when they want working papers, when they are thinking about marriage, they are disturbed and go to great ends to find out who they are. They sometimes will not believe that the agency cannot find out who they are.

Those methods are cruel. Much has been said here today about the possible unfitness of the home, but I want to point out additionally these psychological harms which can affect the whole life of certain children.

MR. MITLER. Thank you, Miss Morss. Thank you very much.

(The prepared statements of Mr. Shea and Miss Morss, in full, are as follows:)

STATEMENT OF MISS A. PATRICIA MORSS, WELFARE CONSULTANT, DEPARTMENT OF PUBLIC WELFARE, WASHINGTON, D. C.

The unsupervised passing around of children, particularly children for adoption was the problem that gave rise to the law of 1944 regulating placement. The undersupply of adoptable children in relation to the demands, and the nature of the social problem of illegitimacy from which problem the largest number of adoptive children come, combined to create a situation whereby unscrupulous persons were willing to acquire babies for those wanting to adopt. In doing this such persons sometimes exploited the unmarried mother's need for secrecy, brought pressures on her to give up her child, acted in ways to cause loss of identity of the child, and caused disappointment for adopting parents who received children who did not prove adoptable or whose parents wanted them back.

Not only an unscrupulous person may cause mistakes, but many well-intentioned persons do not have the time and the resources to see that the interests of all parties are protected. The plight of the unmarried mother makes a great appeal to many persons who are bent on protecting her. Because the child cannot speak up, his welfare can be overlooked in the effort to give the mother immediate protection.

WHO ARE THE CHILDREN WHO ARE AVAILABLE?

The mother is usually a desperate girl expecting a baby without the prospect of marriage, who has come to the city for confinement; who is afraid to go to an agency for fear it may get in touch with her home community. Speed and secrecy are her urgent needs. These play directly into the hands of commercial baby operators.

WHAT ARE THE RISKS UNDER SUCH CONDITIONS?

For the mother there is the physical risk of poor medical care arranged sometime in substandard establishments; there are the pressures exerted on her to give consent at the time of birth if not before, as a condition for having the help of the intermediary.

For the adoptors there is the chance that they may lose the child if the mother changes her mind and can show duress. There is the chance that adoptors find themselves with a child not suitable for adoption; for example, a child whose deafness is not noticed at birth because there was not good medical care.

For the child there is the chance of an unfit home. There is the possibility also of loss of identity. Intermediaries have been known to give "cock and bull" stories about parentage and background. The intermediary promises the mother protection from disclosure and has been known to use fictitious names in transmitting information. These children can become very disturbed in later years when they should have knowledge of who they are but there is no way for them to find out.



## WHAT ARE THE SAFEGUARDS OF GOING THROUGH AGENCIES?

1. For the mother a waiting period of several months after birth to give her time to make a deliberated decision with knowledge of alternate possibilities for the future of the child.

2. A careful history of the child's family and his background kept by the agency to be made available if he needs and wants it when of age.

3. The adoptor and the natural parent do not become known to each other—removing the risk of interference by the natural parents in later years.

4. A matching basis in relating the child to adoptive applicants evaluating the child's endowment, background, and personality, and the needs of the adopting family.

The law was enacted to prevent the problems identified. How effective is it? From the standpoint of protection for all children it is only partly effective. The reasons for this are: (1) The exemptions from restrictions on placement in the law permitting parent and relatives within the third degree to place; (2) lack of clarity in the law with reference to the prohibition in assistance in arranging placements; (3) the limited area of the District of Columbia making it easy for principals in activities to cross over State lines.

Notwithstanding these problems in enforcement of the law, there has been a large increase in the number of children placed through agencies. Investigations of petitions filed in the district court received by the Department of Public Welfare by orders of reference, show an increase from 17 to 50 percent in the adoptions arranged by agencies over the 10-year period from 1945 to 1955, and a decrease in adoptions arranged by parents or relatives from 83 to 50 percent. These figures do not include any placements of parents with relatives or step-parent adoptions. The orders of reference are not a complete index to the extent of agency placements, however, since then District licensed agencies placed 120 or 61 percent of the 194 placements in the calendar year 1954 in the adjoining States of Maryland and Virginia. Additionally, licensed agencies in Maryland and Virginia in adjoining counties place annually more than 100 white out-of-wedlock born in the District of Columbia. The review of 289 white out-of-wedlock births registered in the District of Columbia for a 6-month period in 1954 showed 140 adoption placements of which 112 or 80 percent were agency placements or 28 or 20 percent not agency placements.

Therefore, we know that there are more agency-placed children than are shown in the investigations of the orders of reference for the district court.

Of the orders of reference cases in 1954 involving white children, there were 41 placed by parents with other than relatives, 17 of these were children born and placed from outside the District of Columbia, 9 of which were placements from overseas and 8 from other States. Of the remaining 24 born and placed in the District of Columbia, one was born and placed prior to the enactment of public law 292. Of the remaining 23, 4 were reported to the Office of the Corporation Counsel involving assistance in placement. In almost all of these 23 cases the mother had met the adoptors, although in the 4 cases reported there were 2 where this was not established. In one instance, the adoptors' and the mother's statement, both agreed that the mother had learned about the adoptors through a local hospital. The mother herself took the child to the adoptors in Maryland but she testified she did this only because she would not be permitted by the hospital to have her child because she was not able to pay the bill.

The provisions of 1180 and 1181 should prove helpful to the District of Columbia in prosecuting illegal placements where principals on the activity go out of the District.

In November of 1953 one Reva Walker was given a suspended sentence or a \$200 fine by the municipal court after she was found guilty in illegally placing a child for adoption.

The natural mother said that she was told by Mrs. Walker she need not read the consent. The alleged accomplice in this case was never brought to trial although charged, because he remained in Maryland. If the proposed bill had been in effect, it would have been possible to get services on the accomplice in Maryland while the mother who was the complaining witness was here. By the time the warrant was served, many months later, the mother had disappeared.

I would like to make two comments based on experience in the Department of Public Welfare over a period of years with reference to the independent placement problem.

1. Placements of the intermediary not only may result in a bad home for the child which has been brought out here but the method of placement of the

intermediary often results in loss of identity of the children to cause him concern throughout his life.

There were several regular sources of placement before the enactment of the District law regulating placement which purposively provided fictitious information on parentage of the child. This was done in some instances as an assurance to the unmarried mother that her problem would never be known to others; and in other instances to aid the persons wanting the child to accomplish purposes which were fraudulent. I have known certain of the children who were removed from such placements by the courts. I have known them through their adolescence and in later years struggling with the questions as to who they are; needing proof of birth and identity for working papers, visas, etc. There is a strong craving in every individual for psychological identification of self which is satisfied for most of us fortunately through the unquestioned relationships with our own families. Children who do not know who they are become extremely disturbed and go to any end in their search to find out. The child in a good adoption home will need it less and under good agency adoption practices the information will be there and available to him in later life or earlier with the consent of adopting parents. The children whom I recall were taken for fraudulent purposes and had to be removed from the home. One was a little girl placed on the night of her birth by one of the intermediaries operating before the 1944 act, with a woman who hoped to pass the child off to her husband as their own. It was important to the plan that the woman taking the child never know its identity—then she would never get mixed up by questioning by the husband. When the husband was satisfied that it was not his child and secured a divorce, the woman fell into necessitous circumstances, the child was badly neglected and was finally received for care in an orphanage. The woman's interest in the child petered out in a few years and she grew to adolescence without family and without knowledge of who she was. She was deeply disturbed when considering marriage. The intermediary is dead; the whereabouts of the woman who took the child is unknown and probably no one will ever be able to help her.

Another was a child obtained from an intermediary by an unscrupulous woman who sought to establish claim through him as heir to the estates in Scotland of her deceased husband. The estates proved to be of less value than the wife hoped. The court removed this boy when 3 years of age from her custody when he was neglected and no longer served her ends. The delayed registration of birth offered by the woman in the first court proceedings was by a midwife whose whereabouts could not be established. The courts ruled that it could not have been the woman's child but his identity they were never able to establish. This boy grew up in a free foster home under agency care but unfortunately lost his foster mother by death when 10 years of age. When he has wanted working papers, Government jobs, and most particularly when he wanted the English girl whom he met in the Armed Forces and later married, to understand his background he became unhappy and greatly disturbed.

2. The second comment is with reference to the importance of review of the placement at the time it is negotiated. This is particularly important when the parents of the child are in one State and the adoptors in another one. Unless one can get the facts while in the making, it is difficult to set things right for the child. Our experience in making investigations at the time a petition to adopt was filed, which may be many months after the placement, have shown sometimes that a child need not have lost his family. Sometimes parents under social pressures such as conceptions before marriage or reacting with shock and shame to an unexpected out-of-wedlock birth regret the sudden decisions to let the child go. Intermediaries seldom let the parent know who has the child and the agency which makes the investigation for the court at the time of the adoption proceedings many months after placement, is lost in establishing contact with the parents, particularly when there is distance between the States. I recall an adoption investigation made by the Department for the district court after the child had been in the home 9 months. The young parents in Pennsylvania had conceived before marriage and in an effort to conceal the fact from their parents had taken up residence in a hotel in a nearby city of an adjoining State. The mother returned immediately after hospital confinement to the hotel where they were living and was visited that night by the doctor who brought consent forms. The baby was taken to Pennsylvania and given there from the home of a nurse to the adoptors from Washington as the doctor had arranged. The Department was unable to find the families 9 months later or to get service from the authorities in Pennsylvania in following up the intermediary. The court left the case

open much longer than the 90 days required for investigation and then issued a final decree. It was less than a week later that the parents with counsel visited the agency, having learned after repeated pressures on the intermediary that the child was somewhere in Washington. The young couple were deeply saddened by what they had done and told the story of having sought almost from the beginning of separation from the child to find it. From all we could determine these parents with more time and with the moral backing given by both families with whom they later shared the problem could have raised their child. The adoptors in contrast were older people, the adopting father being a heart invalid at the time of the proceedings who has since died.

#### QUESTIONS

1. Section 1180 needs clarification if it is going to exclude the adoptors and reach for the intermediaries only. It is very inclusive—it says no person alone or through any agent shall place or arrange for placement of a child—unless certain conditions are met. It could be construed to mean that the person receiving the child from an intermediary is taking part in the placement. This is given further weight when we read 1180-3 to the effect that adoptor must obtain the statement in writing from an agency regarding the suitability of their home. If they do not observe the conditions they may be subject to arrest and fine.

2. What is the position of the District of Columbia officials to be in circumstances where District of Columbia resident negotiates with an intermediary outside the District and obtains the child by going to the State where the intermediary is and brings the child into the District of Columbia? Under District law the intermediary could not engage in such acts in the District of Columbia. Are we aiding and abetting violations of our law by making investigations and giving approval to the acts outside which he could not accomplish if he comes in?

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#### STATEMENT OF GERARD M. SHEA, DIRECTOR OF PUBLIC WELFARE, DISTRICT OF COLUMBIA, ON SENATE BILL 3021

##### NATIONAL ASPECTS

The unprotected placements of children across statelines revealed through the hearings of the Senate Subcommittee on Juvenile Delinquency are a matter of concern to all of us.

I am here to support in principle the legislation proposed to correct this Senate bill 3021.

About 20,000 children are placed for adoption in this country each year independently of adoption agencies. A black market in the social, not necessarily the legal sense, has developed because demand exceeds the number of legally available children and because babies can be obtained from nonagency sources more quickly and directly.

Because all independent placements are adoptor-centered rather than child-centered, they should be discouraged. Theoretically, it would be sound planning for every State and community to seek laws which would restrict placement to agencies, but there is a question as to how quickly the aims of such laws could be carried out.

The existing laws in our various States providing safeguards in adoption are of two types—adoption statutes proper which govern the court proceedings and placement statutes which regulate the placement of children in homes in contemplation of adoption. The purpose of the statutes, in general, is to protect three sets of interest: (1) To protect the child from separation from natural parents who might give him a good home if sufficient help was available to them and to protect the child from adoption by persons unfit to raise a child; (2) to protect the natural parents from hurried decisions to give up their child, made under strain and duress; and (3) to protect adopting parents from assuming responsibility for a child whose mental and physical condition is questionable, or to protect from interference by natural parents after the child has been satisfactorily established in his home. States vary in the type of protection given and in these days of greater facility of movement and crossing of State lines, protection in placements for children by State laws alone has become limited.

Even the few States which permit only licensed agencies to place children for adoption have come to know that the State law, obviously, will not be an end to undercover placements made across State lines, for a State may have trouble



in investigating and licensing distant agencies and prosecution of persons outside its jurisdiction is difficult.

Senate bill 3021 apparently recognizes the impracticability at this time of restricting all placements of children to agencies. Section 1180 does not bar the placement of children by intermediaries but provides a practical way of obtaining some protection for such children by requiring review at the time of placement and approval of the State Department of Public Welfare in the jurisdiction into which the adopting family is bringing the child.

It is possible, however, that the country may not everywhere be ready for this measure. There are still many rural areas in the United States which do not have child welfare services to make the necessary investigations.

If the certification by the State Department into which State the child is coming is based on investigation of the suitability of the child for adoption as well as on the suitability of the home into which the child is coming, interviews will be necessary with the natural parents to insure that they have not acted hastily or under coercion to give up their child who may be benefited more by remaining with them.

Channels of communication will have to be opened up between agencies in the State where the parents live and the State where the adoptors reside.

It may also be necessary for the home community to provide temporary resources for care of the child during the time the investigations are being made.

The provision in section 1180 for exemption of parents seems a reasonable one on the surface. It provides, however, a loophole to the effectiveness of the law as it is difficult to establish the assistance given to parents in effecting placements. Many placements made by those assisting the parent are made to look like lawful placements of the parent.

Section 1181 is essential to stop the vicious black-market placements that have been revealed in the hearings of this committee.

Section 1182 is a necessary adjunct to section 1181 since those who operate for a profit motive start their work with the parent and readily move a mother around to suit their convenience. It would be advisable, however, to add to this section the same exemption with reference to licensed agencies which is provided in section 1180 as agencies in States which permit reimbursement policies sometimes arrange obstetrical care for the mother.

#### DISTRICT OF COLUMBIA ASPECTS

##### *History of legislation*

The District of Columbia enacted its first law for protection of children placed in adoption in 1937. There was enacted by the Congress on August 25, 1937, a law regulating proceedings in adoption which provided the court with the machinery for social investigation after a petition to adopt had been filed. Work under this statute brought to light often long after the placement had been made: (1) That certain parents had been willing to place children with unsuitable or unscrupulous persons; (2) that well-intentioned persons had made placements which were poor if not bad, resulting in legal and social complications; and (3) persons with profit motives had made bad placements. We came to know from our experience under this law, that the crux of good adoption was in good placement practices and in a control of placements.

On April 22, 1944, therefore, the Congress enacted Public Law 292, an act to regulate the placing of children in foster homes. This act prohibits placement of children by all intermediaries unless licensed but leaves to the parent and relatives within the third degree, the right to place. From the standpoint of giving protection to all children involved in adoption, the law is only partially effective for reasons which I will later discuss.

To the extent that the petitions to adopt filed in the District of Columbia are an index of placements, improvement is seen since enactment of the law. We find from the district court cases that in the 10-year period from 1944 to 1954, placements of children by licensed agencies increased from 17 to 50 percent and that placement in the home of nonrelated persons without agency service dropped from 82 to 50 percent. Because the District of Columbia licensed agencies place three-fourths of their children in Maryland and Virginia and the adoption proceedings occur in these States, the district court statistics alone are not a complete index of placements. The percentage of agency placements would be much higher if these cases were added to the district court cases. We know that independent placements from the District also are made in Maryland and Virginia but the percentage of these is much smaller than District agency placements in these States.



*The kind of services that are now being rendered*

The changing percentages in the District in the direction of agency-protected placements have come about through community planning in which, however, there is still much to be done. Among the things accomplished are:

(1) Increased provision for maternity home care. Maternity homes were encouraged to make intake policies more flexible and to relax some of the requirements that mothers stay long periods. These changes resulted in an increase of 50 percent in the number of cases cared for. Last year, 3 maternity homes for white unmarried mothers, namely, Florence Crittenton, House of Mercy, and St. Anne's, cared for 321 girls of whom 221 were nonresident. One maternity home for Negro unmarried mothers (Ionia Whipper) has recently reopened but has capacity for only 16.

(2) The Department of Public Welfare improved its procedures for handling applications for admission of resident indigent girls to maternity homes. It transferred the work from the Public Assistance Division to Child Welfare Division in 1952 where there is opportunity for more individual services and privacy for mothers.

(3) The Department established an adoption service of its own in 1945 as a new service and has handled about 40 percent of the placements made.

(4) Eight agencies have been helped to establish or expand services to the unmarried mother including adopting placement. The following eight agencies have met requirements and are currently making adopting placements: The Barker Foundation, Board of Child Welfare of the Baltimore Conference of the Methodist Church, Catholic Charities, Child Welfare Division, Department of Public Welfare, Family and Child Services, Jewish Social Service Agency, Spence-Chapin Adoption Service, and Lutheran Inner Mission. During the past 10 years, 2,100 children have been placed in adoption by these authorized agencies. Additionally, almost 100 infants a year born in the District of Columbia are placed for adoption through arrangements with licensed agencies in the adjoining counties of Maryland and Virginia. Further, more than 1,000 unmarried mothers have had services, including maternity care and/or foster care for the child and help to work out plans other than adoption.

Two community resources are necessary to bring approximately 200 cases a year within the safeguards of agency services: (a) Money for payment for prenatal and confinement care for such mothers as are unwilling to accept maternity home care, and (b) nursery and boarding home facility for temporary care of infants preliminary to adoption placement. Unfortunately, almost all services available are for white mothers and their children, although some basic service such as public financial aid is available for Negro mothers and their children in their own homes as well as for white mothers.

*Present problems—How S. 3021 will be helpful*

The District of Columbia is unable to give protection to all children placed with unrelated persons because:

(1) There are exemptions of parents and relatives from the statutory restrictions on placement. Section 5 of Public Law 292 permits a person to arrange with a parent, grandparent, uncle, aunt, sister, or brother, to obtain a child to adopt and many placements are made directly by parents and relatives with persons well known to them. They are as good or bad as the average parent's judgment. S. 3021 carries exemption of direct placements by parents only. The District law is broader in its exemptions and therefore not as protective. Since the proposed bill is more restrictive, there is a question whether it applies or the District law stands.

(2) Permitting parents or relatives to place provides a loophole in enforcement of the restrictions on assistance in arranging placement. Section 5 of Public Law 292 provides as follows:

"No person other than the parent, guardian, or relative within the third degree, and no firm corporation, association, or agency, other than a licensed child-placing agency, may place or arrange or assist in placing or arranging for the placement of a child under 16 years of age in a family home or for adoption."

It has been our experience that many people think that because the law permits a parent to place that they are only assisting in a lawful placement if they give the mother aid in finding a home. In many instances, it is difficult to disprove statements of parents and adoptors that they knew each other before placement. The intermediary frequently tells them to say so.

The prohibition in S. 3021—1180, paragraph 4—against assistance or guidance to the parent by a third party in the selection of the home is more specific than our law and may influence the interpretation to be given our statute by the courts.

(3) The District of Columbia has no importation or exportation statute regulating the bringing or sending in of dependent children. Public Law 292 prohibits placements in the District by intermediaries but the restrictions are circumvented when the intermediary negotiates the placement from another jurisdiction and arranges for the child to be brought into the District by the adopter. There is no requirement for the adopting family to meet in giving notification to the public department here about the bringing in of the child. When the petition to adopt is filed here and an investigation for the court is made, it is often long after the placement and the court may think it a further hazard to disturb the emotional ties which have developed for the child, even if the home is a poor one. Further, certain States which do not prohibit intermediaries from arranging placements may permit a petition to adopt to be filed in its State where the child is obtained regardless of where the adoptors reside and with little or no insistence on followup between the interlocutory decree given on filing and the final decree. In such instances the district will have no knowledge of such children unless its attention is called to the placement because of neglect of the child.

We find in our investigations of petitions filed to adopt children in the District court, approximately 30 children annually, 18 white and 12 Negro, are brought into the District of Columbia by adopters. Under the proposed bill, section 1180, it is assumed the District of Columbia would review these placements before the child is placed in the home.

In the limited geographical area of the District of Columbia and the extension of Metropolitan Washington into Maryland and Virginia, it is difficult even in placements which are in the District of Columbia to enforce the District law when principals in the activities live in the metropolitan area over State lines or choose to go there to avoid subpena in a prosecution. Sections 1180 and 1181 will be helpful to the District in prosecuting intermediaries here who effect placement of children outside the District of Columbia. The indications are that more white infants placed independently of agencies are adopted annually outside the District than are placed and adopted independently of agencies in the District of Columbia. Twenty-four of the twenty-eight white infants born out of wedlock in the 6 months' study of 1954 were adopted independently of agencies outside of the District of Columbia. Projecting this figure for the year, there would be 48 such placements, whereas there were only 24 white children found in the investigation of petitions filed in the District of Columbia who were born and adopted in the District in the calendar year 1954.

Mr. MITLER. Do you have a statement to submit?

Mr. WHITE. I have nothing. Mr. King—

Mr. KING. I have one statement I think might be of help. It just occurred to me.

I have heard during the time of sitting here today many statements made with respect to even a lawyer being subject to prosecution under these laws, and apparently somebody isn't facing facts.

All the lawyers would be subject to prosecution or would be where he himself aids in the placing of the child. All he has got to do is wait until the child is placed with the adoptive parents, and have them come to him and say "I want you to handle the adoption for us."

Mr. MITLER. In a situation where the intermediary happens to be an attorney, if he has a list of adoptive parents and makes contacts with natural parents and he uses his judgment to determine who was to receive the child, and the natural mother simply passes the child through the door, would you say the intermediary, the attorney, in that situation placed, or the natural mother placed?

Mr. KING. That is the very case we had here in the District court. An attorney by the name of Goodwin was convicted. Our court of appeals sustained his conviction.

Mr. MITLER. That point was argued on appeal, and your court of appeals affirmed the position?

Mr. KING. Very definitely.

Mr. MITLER. Just the mere physical passage of the child—

Mr. KING. There should be no problem to a lawyer. All he has to do is wait until the child is placed, and then he is free to handle all legal work involved.

Senator LANGER. On behalf of the subcommittee, we want to thank you very much for the efforts you made to be here, and your cooperation.

Mr. MITLER. I want to say that your jurisdiction is one jurisdiction that has judiciously tried to enforce its baby brokerage law.

Captain JONES?

Senator LANGER. Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?

Captain JONES. I do.

#### TESTIMONY OF CAPT. ESTIL B. JONES, KENTUCKY STATE POLICE

Mr. MITLER. Thank you very much for coming, Captain Jones, and I want to extend thanks to your commissioner, Commissioner Widner.

You are a captain in the State police from Kentucky; is that correct?

Captain JONES. That is correct.

Mr. MITLER. Would you state your full name and your troop command and where you are located?

Captain JONES. Estil B. Jones, commander of Troop B of the State of Kentucky.

Mr. MITLER. When this investigation was conducted by yourself, were you located in Morehead, Ky., in Rowen County?

Captain JONES. That is true; yes, sir.

Mr. MITLER. Now, this investigation concerned what kind of an interstate operation?

Captain JONES. It was the handling of babies from Kentucky into Texas.

Mr. MITLER. And was another State concerned in that matter also?

Captain JONES. Two other States: Louisiana and Arkansas.

Mr. MITLER. Now, the people involved in this case were arrested as a result of your investigation; is that correct?

Captain JONES. That is true.

Mr. MITLER. And their names appeared in publications?

Captain JONES. Yes, sir.

Mr. MITLER. What is the name of the female?

Captain JONES. Mrs. Zella MacPherson.

Mr. MITLER. And what is the name of the judge—the county judge was indicted and arrested in connection with this case and other matters.

Captain JONES. That is true.

Mr. MITLER. And his name is——

Captain JONES. William T. McClain.

Mr. MITLER. Now, where did Mrs. MacPherson come from? Where was she residing?

Captain JONES. Her home was originally in Morehead, Rowen County, and she had gone to Texas and returned to Morehead and has since returned back to Texas.

Mr. MITLER. What was the gist of the case, that the flow of children was from Morehead principally into Houston, Tex.?

Captain JONES. That is true; yes, sir.



Mr. MITLER. Where did Mrs. MacPherson locate the prospective parents for babies of unmarried mothers?

Captain JONES. From her personal knowledge of the families. She was originally from Rowen County and knew a lot of people who had many children in the family, and from her personal knowledge of the people around the country.

Mr. MITLER. In other words, she had contacts with mothers and prospective mothers in and around Morehead, Ky.

Captain JONES. That is right.

Mr. MITLER. Did you learn how much she received from adoptive couples outside the State of Kentucky?

Captain JONES. Yes, I did.

Mr. MITLER. What was that amount?

Captain JONES. \$1,000 and \$1,500.

Mr. MITLER. Now, did you find, in the course of your investigation, a mother who was offered a substantial sum of money by Mrs. MacPherson?

Captain JONES. That is true.

Mr. MITLER. What happened in that situation?

Captain JONES. Mrs. MacPherson had a prospective couple in Texas who wanted children, and she knew of this lady in Morehead, Ky., who had a large family, a legitimate family, I might add. She offered this lady \$1,000 for 2 of her children and she was refused.

Mr. MITLER. I see.

Now, the judge was your county judge at Rowen County, is that correct?

Captain JONES. Yes, sir.

Mr. MITLER. And what role did he—I believe you told us he was not motivated by profit.

Captain JONES. I do not believe so.

Mr. MITLER. What role did he play in this? How did he make children available to Mrs. MacPherson?

Captain JONES. In two different ways we found out. In one particular case he had taken a child away from an unmarried mother who was having another child, who was her fifth child, incidentally. He had taken the child away from her and turned it over to the State welfare agency.

In Kentucky, a county judge is the juvenile judge in smaller counties. He had taken this child away from the parents and turned it over to the State welfare agency and then this lady, Mrs. MacPherson, found the prospective parents for the child, the judge revoked his order placing the child in the welfare home, supposedly that the child was supposed to go back to its parents, when the order was revoked, but the mother never saw the child any more and the child went to Texas.

Mr. MITLER. Was there another case that came to your attention where the judge told the mother she might as well sign the paper?

Captain JONES. That is true. In another case, in fact it is a case where the lady offered the \$1,000 for the 2 children, he told the mother that she might as well sign those papers because he was going to take all of her children away from her, that she had not raised a decent child in Kentucky; and in another case he told the woman, where he had taken the child away from the mother already, he told her she



might as well sign the paper because she was not going to get her back.

MR. MITLER. Did it come to your attention where Mrs. MacPherson had taken a child down to Houston, Tex., to place, and something happened?

Captain JONES. She had brought a child to Houston, Tex., to a prospective parent. The incident arose where the child was not left at that home. The mother had—the child's mother had signed a paper permitting this man and wife to adopt their child. After the child had gone down there and had been taken down to Texas and Mrs. MacPherson decided this wasn't a proper home for the child, she then changed the name on the paper to another couple in Houston, Tex., and permitted them to take the child.

MR. MITLER. There was another couple in Russellville, Ark.—

Captain JONES. No. In Houston, Tex.

MR. MITLER. In other words, the mother assigned the child to one family and when this did not work, she assigned it to another family.

Captain JONES. That is right.

MR. MITLER. Did you find this was a problem that could be met at the State level or did you find you had to go out of the State of Kentucky to investigate the matter?

Captain JONES. We found we had to go to Russellville, Ark., and then the people who were in Russellville were in New Orleans at the time. The husband was a captain of a freighter, and the mother had taken the child and gone to New Orleans. So we went to Houston, Tex., to see the other people involved and it entailed quite a bit of travel and quite a bit of expense, quite an expensive operation for even the State police to conduct. And in many cases if it hadn't been for the State police, there would have been no investigation in the case.

MR. MITLER. Essentially, you feel this is an interstate activity?

Captain JONES. Definitely, I do, sir.

MR. MITLER. Incidentally, is there any reason why these children, if they are going to be placed for adoption, could not have been placed in Kentucky?

Captain JONES. Definitely not, sir. My wife, sitting back here, and myself have tried for 6 years to get a child through the welfare agency and we were unable to, and the welfare people have stated, as I heard testified here today, that babies are sold to people who can afford to pay \$1,000, \$1,500 for them. People like us will never be able to get a child.

MR. MITLER. Thank you very much, Captain. I appreciate your coming here and forgive me if we didn't go into some of the facets of that case that are very interesting. But we have a full record of it.

I think it is your position this is interstate and also that there is no reason to bring the children across State lines in this case because there are so many people in Kentucky, such as yourself and your wife, who are suitable, who would like to have a child. Is that correct?

Captain JONES. Yes, sir. That is about it.

MR. MITLER. Thank you.

MR. GREEN, would you take the oath, since you are going to be talking about an investigation.

Senator LANGER. Do you solemnly swear that the testimony you are about to give in the pending matter will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. GREEN. I do.

## TESTIMONY OF HARRY W. GREEN, INVESTIGATOR

Mr. MITLER. Thank you very much for coming. You will understand if I do abbreviate some of your material.

You are Harry Green?

Mr. GREEN. Harry W. Green.

Mr. MITLER. And would you give your identification?

Mr. GREEN. I am an independent investigator, nationwide service for attorneys.

Mr. MITLER. And your knowledge of the interstate adoption problem comes from the fact that on two occasions you represented publications, Look in one instance, and McCall's magazine, in libel actions that were brought as a result of articles written on the so-called baby racket?

Mr. GREEN. Yes, sir.

Mr. MITLER. All right. Now, the first case you investigated in behalf of Look was the Hightower Health Home in Texarkana, Tex.?

Mr. GREEN. Yes, sir.

Mr. MITLER. That is a health home supposedly to take care of old people?

Mr. GREEN. Ostensibly it is an old folks' home.

Mr. MITLER. And the operator is Mrs. Ruby Hightower?

Mr. GREEN. Yes, sir.

Mr. MITLER. Did you learn whether they placed babies interstate?

Mr. GREEN. She did.

Mr. MITLER. Did you have a statement from somebody about how many she had placed interstate?

Mr. GREEN. An ex-employee who was familiar with her methods told me that Mrs. Hightower said in connection with a particular baby that that was No. 993, and she hoped to make it 1,000 before she died.

Mr. MITLER. Is she licensed to place children?

Mr. GREEN. She is not.

Mr. MITLER. Now, these children went to what States, Mr. Green?

Mr. GREEN. She said that they had gone practically to every State in the Union, and my own investigation traced children into Ohio, Indiana, into Arkansas, into Florida, and I don't recall all the States.

Mr. MITLER. Now, with respect to the qualifications of her home to place children, would you just highlight the kind of conditions that existed in the home?

Mr. GREEN. Ostensibly it is an old folks' home. It is a home for pensioners. On the side she sobered up drunks, alcoholics. She had a massage house, a bathhouse there, and on most occasions over a period of years she had one or more unwed mothers living there awaiting the coming of a baby.

Mr. MITLER. And did you get some indication that there was involvement with drug addicts?

Mr. GREEN. Ex-employees and ex-patients told me they were able to get narcotics there. One man said he got the habit there.

Mr. MITLER. With respect to the methods she used in registering births, did she put the unmarried mothers in the hospital in a certain way?

Mr. GREEN. In the last 5 years or so, or since about 1950, the majority of her cases were handled this way.

A couple would approach her seeking a child and she would promise to deliver one. And she would then contact an unwed mother. She

would place that unwed mother in the hospital under the name of the prospective adoptive mother. The child would be born and the name given to the child that had been selected by the prospective adoptive parents, and a birth certificate in Texas would be——

Mr. MITLER. In other words, the situation was that it would appear in the birth certificate as if the adoptive parents were the natural parents?

Mr. GREEN. That is correct.

Mr. MITLER. Now, I know you have a very interesting case on this point. Did you locate a case, just to sum it up, summarize it, without going into the facts, in which the child was in the home and was deprived of certain rights? Could you highlight that?

Mr. GREEN. Very briefly, I located the child in a home. The foster father had died just a few months prior to that, and the widow, in administering the estate, had secured a lawyer and made an affidavit that that was her child. The lawyer enabled her to file the necessary forms to collect social security, and when I uncovered the case, she had to retain legal counsel and make arrangements to return the social-security payments, illegally made to this child, who was not her child, after all.

Mr. MITLER. Under that method the rights of inheritance are not valid?

Mr. GREEN. Under that method such a child has none of the legal rights of any child. It cannot inherit property, cannot receive social-security payments, and cannot receive insurance.

Mr. MITLER. Well now, I am going to turn now to the next situation. That involved an investigation in Phenix City, Ala.?

Mr. GREEN. Yes, sir.

Mr. MITLER. And that involved Dr. Floyd and Mrs. Alice Floyd, who appeared before this committee.

Mr. GREEN. The person particularly under investigation was Mrs. Alice Floyd.

Mr. MITLER. Now, they placed out children extensively, is that correct, on an interstate level?

Mr. GREEN. Yes, sir.

Mr. MITLER. They weren't licensed?

Mr. GREEN. They were not.

Mr. MITLER. What are the characters of some of the people they placed children with?

Mr. GREEN. One child went to a man known as Head Rebel, C. O. Rebel, said to be one of the leading racketeers of Phenix City, who, when I was there last January, had not been apprehended.

Mr. MITLER. Did Mrs. Alice Floyd use the same method you have just described of putting the child in the hospital under the name of the adoptive parents?

Mr. GREEN. In about 50 percent of the cases.

Mr. MITLER. That resulted in a lot of legal entanglements.

Mr. GREEN. Yes, sir.

Mr. MITLER. And did you find there that even though the National Guard had taken control of Phenix City to conduct an investigation there into the baby racket that they were hamstrung because they were restricted to Phenix City?

They couldn't cross State lines?



Mr. GREEN. They were limited to investigation in Alabama.

Mr. MITLER. With respect to these establishments that you found to be in this activity that were unlicensed and illicit, what are some of the conditions, what is the summary of the conditions you found?

Mr. GREEN. In connection with the illegal placement of children, I find that abortions go hand in hand with it.

Mr. MITLER. And other criminal activities?

Mr. GREEN. Yes.

Mr. MITLER. All right. Forgive me for condensing. I know you have had a tremendous amount to say. Have you got an opinion about this bill, Senate 3021?

Mr. GREEN. Yes, sir.

Mr. MITLER. Would you state it, please?

Mr. GREEN. I think it is not only desirable, but I think it is necessary, and I say that, while basically I believe in States rights and don't like the encroachment of Federal authority, yet in this case I think that it is necessary.

Mr. MITLER. Thank you very much.

### TESTIMONY OF GALE MARCUS—Resumed

Senator LANGER. You say you wish to make a statement, Mr. Marcus?

Mr. MARCUS. After I got out in the corridor, my attorney advised me that the question that Mr. Mitler asked was one thing and what I understood it to be was something else.

I would like to get that clarified.

Did I understand the question to be, Did I lie concerning a statement I had made with Mr. McGovern, referring to my statement this morning; or what was—that is what my understanding was.

Mr. MITLER. Well, I suggest perhaps we can wait until later, and get the other witnesses on. I don't recall which question you are referring to.

I will concede I asked more than one.

Mr. MARCUS. There were several there, and I was talking to counsel at the time you asked it, and I am not sure whether I understood it or not.

Mr. MITLER. I don't know exactly what question you mean, and you weren't listening. We are in a dilemma.

Mr. MARCUS. It was one with reference to what I thought was a conversation or statement that I made this morning. But I will wait.

Mr. MITLER. Why don't you get the transcript, perhaps, and that can be arranged in that way, and that will clarify it?

Mr. MARCUS. Well, if the statement that I made is incorrect, I want to correct the statement.

Mr. MITLER. Well, that leaves us in a bit of dilemma. If you made an incorrect statement—

Mr. MARCUS. I would like to have a chance to correct the statement. If I misunderstood the statement, I want to correct it.

Senator LANGER. We will take a 5-minute recess, and then have the question read back.

(Short recess was taken.)

Senator LANGER. Back on the record.



Mr. MARCUS. The court reporter read the question to me, and I find I was mistaken in my answer. I thought that Mr. Mitler was asking whether I had lied when I said this morning that I had discussed money matters with Mr. McGovern and I find that his question was something entirely different, but one that I had refused to answer this morning, because he was attempting to find indirectly what I claimed was a privileged conversation.

Mr. MITLER. Well, do you want to clarify the point?

Mr. MARCUS. Yes. I would like to clarify the point.

Mr. MITLER. I will try, as best I can, to get as close to that question.

Mr. EHRLICH. May I say, Mr. Mitler, that it wasn't until he got out in the hallway, and disagreed with me about what the question was that I called to his attention what I thought it was, and he said that he did not understand the question to be as I suggested it.

As a matter of fact, when we did return, and the reporter was kind enough to read the question to us, it was exactly as I understood it to be, that which he says he did not understand it to be.

Senator LANGER. Will the reporter read back the question, please?

(The question was read back, as follows:)

When you were interviewed by Assistant State's Attorney McGovern of Cook County, did you lie to him about the amount of money you had received in the transaction?

Senator LANGER. Will you answer the question now, Mr. Marcus?

Mr. MARCUS. The answer to the question is as I answered it this morning.

I will stand on attorney client's privilege, because counsel is attempting to obtain indirectly the information that I refused to divulge on direct examination.

Senator LANGER. I will give you the same answer I gave this morning. I direct you to answer the question.

Mr. MARCUS. I will stand on the attorney-client privilege.

Mr. MITLER. May I point out that the client has waived the privilege in this case, has testified before this subcommittee in executive session, and voluntarily disclosed the facts to me.

Therefore, the attorney-client privilege was waived. I therefore ask the witness be directed to answer that question.

Senator LANGER. I direct you to answer the question.

Mr. MARCUS. May I also add that there were two clients involved, and let the record show that only one testified, and where you have joint clients—

Mr. MITLER. Both testified, Mr. Marcus.

Mr. MARCUS. I am talking about husband and wife. Did the wife testify?

Mr. MITLER. She did not.

Senator LANGER. You don't have to answer that question. It is indicated he refused to answer the question.

Do you still refuse to answer?

Mr. MARCUS. That is right.

Senator LANGER. That is all.

Mr. MARCUS. May I have the record show, Senator, that the clients in question were husband and wife, and only the husband testified?

Mr. MITLER. Senator, I want to present to the subcommittee the recommendation before the full subcommittee that these refusals always be considered on a motion for contempt.

Senator LANGER. They will be taken care of at the proper time. Any other statement you want to make?

Mr. MARCUS. I do want to make a statement, Senator, if you have the time.

Senator LANGER. Go ahead. We will take the time.

Mr. MARCUS. Thank you very much. I have been very much interested in what has been said at this hearing, and I made a few notes that I think the committee should consider in addition to some of the problems presented. First, a great deal—first, I would like to explain that my sincere interest is with children.

Senator LANGER. Your what? I didn't understand you.

Mr. MARCUS. I say my interest has been for many years for children. I have worked with them. I have taught them. I have had a great deal to do with raising a brother and a sister and now four of my own.

My background and studies have been with children both in child psychology and in sociology. I have taught them in camps, and so on. Now—

Senator LANGER. You won't be heard on this. If you want to say anything about why you refused to answer any of these questions—

Mr. MARCUS. No.

Senator LANGER. We don't care to hear anything else.

Mr. MARCUS. Thank you.

Mr. MITLER. Mrs. Brown, would you step forward, please?

You are Mrs. Florence Brown?

**STATEMENT OF MRS. FLORENCE BROWN, EXECUTIVE DIRECTOR,  
LOUISE WISE SERVICES, NEW YORK, N. Y.**

Mrs. BROWN. I am.

Mr. MITLER. You are the director of what agency?

Mrs. BROWN. I am the executive director of the Louise Wise Services in New York City.

Mr. MITLER. And is it correct to say, before you present your statement, that it is true that many of the people who have made applications to your agency who have been unable to get children through your agency are perhaps the couples who have to go to Chicago in these matters?

Mrs. BROWN. I think it probably is very true because of the fact that we have such a tremendous number of families applying to us.

Mr. MITLER. You have a statement you wish to read?

Mrs. BROWN. Yes.

Mr. MITLER. Would you go ahead?

Mrs. BROWN. I just want to first say a word about our agency. The Louise Wise Services—

Senator LANGER. That sound means a rollcall, Mrs. Brown. We will have to recess this hearing.

I am mighty sorry, but when that one bell rings, it means all Senators have to report for rollcall. I am terribly sorry.

Will you get statements here?

How many more witnesses have you got?

Mr. MITLER. I have about 7 or 8 witnesses.

Could we do this perhaps in an informal manner, and get on the record the other—

Senator LANGER. If you have proposed statements, you are authorized to put them into the record.

I am very sorry I have to leave you. I apologize to all you witnesses, but they are voting on the Mohawk power bill. The Senators are expected to be there to vote.

Mr. MITLER. I think perhaps you can go ahead and read it in the same manner.

Mrs. BROWN. Our agency was founded 40 years ago, and during this period we have helped over 4,000 unmarried mothers and have placed over 3,000 children in adoptive homes.

I have been the executive director of the Louise Wise Services for the past 7 years.

In addition, I am the chairman of the New York City Welfare and Health Council, Committee on Adoption and Services to Unmarried Mothers; and I am also a consultant on adoption for the Child Welfare League of America.

Adoptive placements that are not handled by agencies include three kinds of situations.

One, those in which the mother knows the family with whom she wishes to place her child. These cases are very rare. Even in these cases in which the mother does know the family, counseling services of an agency should be available to her.

The second group of situations are those handled by a well-meaning intermediary, who does not receive any money, and who usually does this as a favor to the adoptive parents. In such instances, even though the person may be well-intentioned, he does not have competence to select the family.

Also, the unmarried mother does not receive counseling, and the other kinds of services which can be offered only through an agency.

The third situation in which the black marketeers prey on unmarried mothers by offering them a small financial settlement in order to get their babies to sell.

Frequently it is difficult to determine whether the person is a well-meaning intermediary or whether he is only interested in the money involved.

The results in groups 2 and 3 are really the same. Whether or not money is a factor, none of these necessary safeguards can be provided for the unmarried mother, the child, and the adoptive parents.

I believe that the pending bill can be extremely helpful in curbing interstate placements.

It must be recognized, however, that since this bill relates only to interstate placements, it will not eliminate the local black and gray market dealers.

The local dealers can continue to flourish, unless there is similar legislation within each State.

However, it is likely that the passage of such a bill will, by example, ultimately affect State legislation.

Section 4 in 1180 is not explicit enough. If it remains in the bill, it is important to make clear that a direct placement is only one in which the mother personally chooses the family and knows its identity and whereabouts.

As indicated above, such cases are rare.

Legislation in this field is important, but, in addition, more adequate agency resources are needed.



In many communities there are no services whatsoever, and in others the existing services are inadequate to meet the needs.

The essential services needed for unmarried mothers must include counseling services, medical care, financial assistance, and shelter care. In addition to providing adequate services, communities need to do a great deal more in letting the public know about the availability of such services.

Too frequently unmarried mothers turn to the black market because of the lack of community facilities or because they do not know of the existing community resources available to them. Provision of sufficient facilities and interpretation to the public should be the responsibility of the Federal Government as well as the individual States.

Therefore, in addition to Federal legislation the Government can offer very great assistance by sharing the financial burden and making expansion of services possible.

Mr. MITLER. Thank you. I want to apologize to the people that waited here through the day, but I want to tell you that your statements will appear in the record and the record is printed and it is circulated throughout the country, so that your being here will have a sound constructive effect.

Will the ladies from Delaware step up?

My suggestion is that if you have something written, submit it. If you have something beyond that, say that. You understand the committee technically is not empowered to receive testimony. They are empowered to receive the statements and that is all at this time.

Will you give your identifications?

#### **STATEMENT OF ELIZABETH S. TOWNSEND, EXECUTIVE DIRECTOR, CHILDREN'S BUREAU OF DELAWARE**

Mrs. TOWNSEND. I am Elizabeth S. Townsend, executive director of the Children's Bureau of Delaware. I do have written statement that I would be glad to submit.

Mr. MITLER. Is there anything you would like to say beyond your statement?

Mrs. TOWNSEND. I don't think so, except to say that we in Delaware feel that the Senate bill 3021 would be a step in the right direction and help greatly in the control of interstate placements.

We do find that we have some exceptions to the bill which are included in our notes. But we do feel that with the law as rigid as ours in Delaware, there is no way to control interstate placements unless you have law on the Federal level.

Mr. MITLER. Your law in Delaware completely outlaws independent placements?

Mrs. TOWNSEND. Yes.

Mr. MITLER. What has been the effect? Have there been circumventions of the law, or have you been able to control it?

Mrs. TOWNSEND. There have been some circumventions, mainly in the manner of what you call in your law the three permanent placements. In other words, placements which cannot end in legal adoption. There certainly have been also placements of babies born in Delaware in other States and there is no way the Delaware law can regulate them.



(The statement of Mrs. Townsend is as follows:)

I am Elizabeth S. Townsend, executive director of the Children's Bureau of Delaware.

In 1951 the General Assembly of the State of Delaware enacted into a law a new adoption statute which provides for the following:

"No petition for adoption shall be presented unless previous to the filing of the petition the child sought to be adopted has been placed for adoption by an authorized agency or by the State Department of Public Welfare, provided, however, no such placement shall be necessary in the case of:

"(a) A child sought to be adopted by a step-parent

"(b) A child sought to be adopted by a blood relative

"(c) A child received by the proposed adopting parent or parents from an agency without the State of Delaware with the written consent of the State of Department of Public Welfare."

This law became effective in July 1952 so we have had almost 4 years of experience with it. Specifically the Delaware law makes mandatory the placement of a child for adoption through an authorized agency or the department of public welfare with the exception of a child to be placed with blood relatives or to be adopted by a stepparent, hence so-called independent placements cannot be sanctioned by the court in any legal adoption proceeding. This means then that a parent wishing to release a child for adoption and a couple wishing to adopt a child unrelated to them must use the services of an authorized agency.

It should be noted that a statute of this type with ultimate controls though ideal in the protection it provides for the child, the own parent and the adopting parent requires in order to be truly effective adequate agency services available to everyone. These would include services to the parent wishing to release a child such as casework, or counseling service, maternity home care, medical services, and financial assistance; services for the child including temporary boarding care placement for the purpose of preadoptive study, medical, psychological, psychiatric, and other needed consultation services in order to determine the child's suitability for adoption and services to process all the applications to adopt a child in order that each couple be given a fair opportunity to be considered as potential adoptive parents. For many States, a law such as we have in Delaware would necessitate expansion of existing agency services in order to meet the increased demand which would result. In Delaware, we were fortunate, and indeed would certainly never have attempted such legislation without the prior knowledge that existing agency services were adequate and available to handle the anticipated increased demand upon them.

Almost 4 years' experience with the law has convinced those of us in the adoption field in Delaware that it does provide maximum protection for the child and his parent and the couple wishing to adopt. The authorized agencies have been able to handle the volume of cases coming to them with the exception of Negro children for whom a sufficient number of adopting families are not available, a nationwide problem. Some independent or nonagency sponsored placements are undoubtedly still taking place in Delaware though to what extent is not known since these placements cannot come before the court having jurisdiction in adoption. A careful record of such placements is kept by the Department of public welfare whenever one comes to light so that these can be followed in the future if necessary. Couples who have been known to take into their home independently a child unrelated to them have usually been found to be couples already refused a child by an agency, couples who are very fearful they would not qualify to adopt by agency standards, couples who have been given improper legal advice about the adoption statute and couples who agree to provide care for a child and later find the child eligible to be adopted. Parents who have placed children in this manner without the legal sanction have been found to be avoiding the legal requirements on termination of parental rights in adoption proceedings, to prefer to know with whom the child is placed (not a true adoption) and to have had improper legal advice. We have reason to believe that such placements are decreasing as more specific knowledge of the law is disseminated, particularly to the members of the legal profession.

The Delaware law can, of course, only pertain to adoption proceedings within the State so that a parent is free to place a child for adoption out of the State and a Delaware couple adopt a child in another State where the laws of that State do not require residence within the State. Nor can the Delaware law regulate out-of-State placements of children born in Delaware where an intermediary may arrange for such placements.

I believe that Senate bill S. 3021 would provide some most necessary controls in interstate placement of children for permanent free care or for adoption. With certain exceptions, I find one provision in the bill, section 1180 (a) (4), namely, "unless such placement is made by the natural mother directly and without assistance or guidance of a third person or intermediary in the selection of the foster or adoptive parents" questionable because of the practical impossibility of proving the presence of an intermediary or third person.

This section would appear to me to provide a loophole for the remainder of the provisions of the bill since it would be so difficult if not impossible to prove the assistance or guidance of a third person or intermediary. If a mother wants her child placed with a specific family whom she knows, would there be any reason why this family should not be investigated and secure the prior approval of the public department on the same basis as any other placement as provided in the bill? There is no reason to assume, likewise, that the placement by the mother would necessarily be in the best interests of the child and for this type of placement the same safeguards are indicated. Providing these safeguards would still not remove the right to place from the mother but insure for the child the proper protection. A second exception I would take to the bill involves the provision for approval "after such placement." It would appear to me that the investigation and approval should take place prior to placement.

Mr. MITLER. You are Miss Pennypacker?

**STATEMENT OF MISS KATHRYN PENNYPACKER, CHIEF, BUREAU OF SOCIAL SERVICES, DEPARTMENT OF PUBLIC WELFARE, WILMINGTON, DEL.**

Miss PENNYPACKER. I am Miss Kathryn Pennypacker, chief of the Bureau of Social Services of the Department of Public Welfare in Delaware.

I did not prepare a written statement.

Mr. MITLER. Would you therefore, for your statement, go ahead and give us just an outline of what you would like to say? That will appear in the printed record.

Miss PENNYPACKER. Mrs. Townsend and I agree pretty much with what she has already written and will submit to the committee.

In connection with some of the testimony earlier in the afternoon, I do not think that some previous testimony that was given regarding Federal interference with agencies would militate against this bill. I mean, I believe that licensed agencies in any child-placing agency should have responsibility for placing children.

Our law does give the department of public welfare the authority to license nonsectarian and also religious agencies to meet certain standards in placement of children for adoption or for other kinds of placement, so that all religious groups have their interests protected by having license to operate for their own children.

We have a law in Delaware that prohibits the importation of children into the State without the consent of the Department of Public Welfare. We have no way of preventing children being taken from Delaware to other States for purposes of adoption. We know of families who have tried to circumvent our law regarding the importation of children into the State of Delaware and this is somewhat hard to control.

If a family brings a child into the State, they cannot adopt their child in Delaware, but they may keep the child if no money is involved, and we cannot prevent them from doing so.

Mr. MITLER. Thank you very much, Miss Pennypacker.

Mr. Terner.

I am sorry you had to wait all day.

**STATEMENT OF EDWARD TERNER, CHAIRMAN OF ADOPTIONS, NEW JERSEY WELFARE COUNCIL, WEST ORANGE, N. J.**

Mr. TERNER. Perfectly all right.

Mr. MITLER. And I know you came here as a voluntary witness. Do you have a statement, a prepared statement?

Mr. TERNER. No, I do not have a prepared statement, Mr. Mitler. Most of the things that I was going to suggest, I think were covered by Dr. Eliot's statements to the committee. But I do want to point out one thing to the committee, and that is this.

As an attorney representing several adoption agencies, and being called upon to interpret any Federal legislation that may be passed, it becomes my function to evaluate any possible bill and make sure that the operations of licensed and authorized agencies are not curtailed, and I am sure that it is the goal of the committee.

I understand that the word "and" is going to be changed.

Mr. MITLER. That was in error. That should be "or".

Mr. TERNER. I assume that on page 3, subparagraph 2, that will also have "or" at the end of it, because I think that the committee will probably agree with me that a situation as arises in subparagraph 2 would not be synonymous with one in subparagraph 3, and I assume that all these paragraphs will be divided by the word "or".

I might call attention of the committee to one other thing, and I think this is important for interpreting this law to agencies. That is, subparagraph (b) in section 1181 which provides for exception in the case of child-care adoption agencies, I think that subsection should also appear in section 1182 because I think it is the feeling of the committee that the situations that are covered by section 1182 should be held not to apply to licensed child-care agencies also. Which, as you probably know, are authorized in many States to charge fees.

Mr. MITLER. Yes. That is another point that has been brought to our attention. Thank you for telling us about it.

Mr. TERNER. I think any others were covered by Dr. Eliot's statement, and I will not repeat that.

Mr. MITLER. Thank you very much.

Mr. Turner is from Newark, N. J. What is your address?

Mr. TERNER. I am from West Orange. I am chairman of the Adoptions in New Jersey Welfare Council, and also, legal consultant to several adoption agencies in the State of New Jersey.

Mr. MITLER. Did you give your home address?

Mr. TERNER. 10 Main Street, West Orange, N. J.

Mr. MITLER. John Theban. He comes as a member of the board of Child Welfare League.

You represent the Child Welfare League of America?

**STATEMENT OF JOHN G. THEBAN, MEMBER OF BOARD OF DIRECTORS, CHILD WELFARE LEAGUE OF AMERICA**

Mr. THEBAN. Yes, sir.

Mr. MITLER. And this is the statement, and it is from John G. Theban, 206 Wolfe Street, Alexandria, Va.

Mr. THEBAN. There is only one thing I would add to it and that is, I am sure the league's position would be that if one child is sold, this is still a matter of Federal concern.



Mr. MITLER. Thank you very much. I am sorry things had to be abbreviated.

(The statement of Mr. Theban is as follows:)

I am John G. Theban of 206 Wolfe Street, Alexandria, Va. I am speaking for the Child Welfare League of America of which I am a member of the board of directors. The league is grateful for this opportunity to thank the committee for its interests and activities. We wish, too, to speak in support of the objectives of S. 3021 which appears in the main to be a good bill. It should have the double effect of bringing criminal sanctions against those who would operate in black-market placement and of stimulating the further development of adoptive placement under auspices known to be beneficial for the three parties to every adoption.

While this is a controversial question it might be considered whether the purposes of the bill might not be more surely achieved if point 4, on page 3, were omitted, thus denying the mother the right to place directly. It is very difficult to prove that there has been assistance, let alone mere guidance.

Since a child is not a property and since the mother is in essence relieving herself of all responsibility, it might not be considered an unwarranted interference with personal rights to deny her the right to place the child with whomsoever she pleases.

In the important decisions made in adoptive placement the league believes that the child has a fundamental right to the fullest protection and that the primary right is consideration for his well-being, rather than that the pressures on and from the other parties to adoption should govern the process.

Mr. MITLER. Miss Unger, the committee is not sitting, and cannot take any witnesses. So, if you will wait there just a minute, I will speak to you, but as you can see, we are not authorized to call you at this moment.

Are there any other witnesses that have statements that I might have overlooked?

Now, there is one witness whose statement I do wish to take. Will you step forward, please?

The closing statement I am going to have incorporated in the record, because, as I understand, another Senate committee is coming in here right now. This concludes the hearing except for the submission of some other statements or letters into the record.

Senator LANGER. This concludes the hearings on S. 3021. This morning testimony was heard showing that there is a substantial commercial traffic in children across State lines. In some instances even underworld figures are invading a most sensitive area—that of child placement. I am shocked to think that a hoodlum and underworld figure, such as we heard testimony about this morning, can roam at will between the States ferreting out pregnant girls for the purpose of literally selling their children.

More important than the profit motive are some of the unwise and dangerous practices that we have heard about when children are moved interstate for adoption. This morning's testimony conclusively settles that there is an urgent need for some measure of Federal control, not to restrict or interfere with the interstate placement of children but to give sound and necessary protection to the adoptive parents, the natural parents, and the child.

I want to thank all the witnesses who appeared on this phase of the hearing, especially for their help in giving this better understanding of the situation. I think the natural parents who came here voluntarily showed courage, and without their testimony it would be difficult for any of us to really understand the complete picture.

The witnesses who testified this afternoon represent some of the outstanding people in the child-welfare field. They have made valuable and constructive suggestions with respect to the proposed bill, and many of them will be incorporated into amendments to the bill. Judge Gutknecht has made a real contribution by presenting to us the difficulties of prosecuting this kind of matter on a local level.

The material that has been gathered together to make possible this hearing was the result of the cooperation of many social agencies across the country. The subcommittee wishes to express its appreciation for the help given by the police department of Lakeland, Fla.; the police department of Orlando, Fla.; the detective bureau of Miami, Fla.; the sheriff's office of Walworth County, Wis.; and Sheriff Joseph Logan's office, of Cook County, Ill., which provided personnel and extensive help to the subcommittee.

The hearing today has helped the subcommittee and the community to better understand the interstate-adoption problem. Above all, it has shown there is a burning need for immediate legislative action in this field.

(Whereupon, at 6:10 p. m., the subcommittee went into executive session.)

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